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No. 17] NEW DELHI, MONDAY, MARCH 3, 1958/PHALGUNA 12, 1879

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 14th February 1958 Magha 25, 1879 Saka

S.O. 163.—Whereas the election of Shrimati Chodagam Ammanna Raja, as a member of the Legislative Assembly of the State of Andhra Pradesh, from the Attili constituency has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Datla Suryanarayana Raju *alias* S. R. Datla s/o Shri Krishnamraju, Resident of Penumantra, Tanaku Taluk, West Godavari District;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of section 86 of the Said Act, for the trial of the said Election Petition, has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act the Election Commission hereby publishes the said order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL AT RAJAHMUNDRY (ANDHRA)

Tuesday, the 31st day of December 1957

PRESENT

Sri T. H. M. Sadasivayya, M.A., B.L.—*Chairman.*

Sri C. Narasimhacharyulu, B.A., M.L.—*Judicial Member.*

Sri M. Sitharamayya, B.A., B.L.—*Advocate Member.*

ELECTION PETITION NO. 9 OF 1955

(Attili Assembly Constituency).

BETWEEN:

Sri Datla Suryanarayana Raju *alias*, S. R. Datla, s/o Krishnamraju, aged 37 years, Kshatriya, Penumantra, Tanuku Taluk, West Godavari District—*Petitioner.*

AND

Srimathi Chodagam Ammanna Raja, wife of Janardana Rao, aged about 45 years, Telaga, Vijayawada—*Respondent.*

Petition dated 13th May 1955 filed under Sections 81 and 83 of the Representation of People Act XLIII of 1951, praying that the petitioner may be granted the declaration that the election of the respondent is void and that the petitioner has been duly elected to the Andhra Legislative Assembly from the Attili Assembly constituency, that he be granted the costs of the petition and that he may be granted such further or other relief which may be deemed fit.

This Election Petition coming on for hearing before the Tribunal on Tuesday (7 2 1956), Thursday (22 1 1957), Wednesday (23 1 1957), Thursday (24 1 1957), Friday (25 1 1957), Thursday (7 2 1957), Friday (8 2 1957), Monday (11 2 1957), Tuesday (12 2 1957), Wednesday (13 2 1957), Thursday (14 2 1957), Friday (15 2 1957), Wednesday (20 3 1957), Thursday (21 3 1957), Friday (22 3 1957), Monday (25 3 1957), Tuesday (26 3 1957), Wednesday (27 3 1957), Monday (3 4 1957), Tuesday (4 4 1957), Wednesday (5 4 1957), Thursday (6 4 1957), Friday (7 4 1957), Saturday (8 4 1957), Monday (14 4 1957), Saturday (20 4 1957), Friday (12 7 1957), Saturday (13 7 1957), Monday (15 7 1957), Tuesday (16 7 1957), Wednesday (17 7 1957), Monday (9 9 1957), Tuesday (10 9 1957), Wednesday (11 9 1957), Thursday (12 9 1957), Friday (13 9 1957), Saturday (14 9 1957), Monday (14 10 1957), Tuesday (15 10 1957), Wednesday (16 10 1957), Thursday (17 10 1957), Friday (18 10 1957), Saturday (19 10 1957), Tuesday (5 11 1957), Wednesday (6 11 1957), Thursday (7 11 1957), Friday (8 11 1957), Saturday (9 11 1957), Monday (11 11 1957), Tuesday (12 11 1957), Wednesday (13 11 1957), Thursday (14 11 1957), Friday (15 11 1957), Saturday (16 11 1957), Monday (18 12 1957), Tuesday (19 12 1957), upon perusing the petition and the list of particulars and schedules I to VIII attached to the petition and the verified counter of the respondent and other material papers on record and upon hearing the arguments of Sri S. Lakshminarasimham Advocate and Sri L. Suryaprakasarao, Advocate for the petitioner and of Sri V. Visweswararao Advocate for the respondent and the petition having stood over to this day for consideration the Tribunal delivered the following

JUDGMENT

This is a petition filed under Sections 81 and 83 of the Representation of People Act XLIII of 1951 hereinafter called the Act praying for a declaration that the election of the respondent to the Andhra Legislative Assembly from the Attili Constituency, West Godavari District, is void, and that the petitioner has been duly elected to the said constituency.

2. This election was a straight fight between the petitioner as representing the Communist party and the respondent as representing the Congress party. The election was held on 18 2 1955. Counting took place on 1 3 1955. The respondent polled 20 633 votes as against the petitioner who polled 20 455 the difference being 178 votes. The result of the election was published in the official Gazette on 7 3 1955.

3. The petitioner challenges the validity of the election on grounds of corrupt and illegal practices coming within the provisions of Sections 123, 124 and 125 of the Act. It is alleged that the abovesaid corrupt practices were organised systematically and on a large scale by the respondent herself or through her agents or by other persons with the knowledge, consent or connivance of the respondent or her agents. The main categories of corrupt practices pleaded are

- 1 Impersonation of dead, absent and fictitious voters,
- 2 Undue influence, coercion and intimidation,
- 3 Procuring assistance of village officers at several places in the constituency,
- 4 Appeals on grounds of caste,
- 5 Viliification by false statements as regards the personal character and conduct of the petitioner,
- 6 Anonymous publication of posters and leaflets,
- 7 False return of election expenses.

It is also alleged that as regards postal ballot papers there was no secrecy of ballot and that the special procedure prescribed for the marking and counting of postal votes is *ultra vires* and void. Lists of particulars of the corrupt practices pleaded above were annexed to the petition. The following are the particulars—

(1) IMPERSONATION

It is alleged that in a large number of cases the respondent's men procured applications for ballot papers by persons in the names of other persons who are dead or living but absent at other places or of persons who do not correspond to any one either living or dead and who are fictitious. Such ballot papers were polled for the respondent. Six schedules have been appended giving the lists of such impersonated votes. Schedule I contains a list of dead persons whose names appear in the electoral rolls but in whose names other persons applied for ballot papers, obtained them and polled for the respondent. Schedule II relates to fictitious names in the electoral rolls under which other persons obtained ballot papers and polled for the respondent. Schedule III is a similar list of absentee voters. Schedule IV contains a list of voters whose names appear twice in the electoral roll of the same village and in respect of both of which ballot papers were applied for, obtained and polled for the respondent. Schedule V is a list of voters whose names appear in the electoral rolls of two different villages, in only one of which the voter

resided and voted in fact, but, in the other villages also ballot papers were obtained by other persons and polled for the respondent. Schedule VI contains a list of dead voters in whose names, the petitioner has reason to believe, other persons applied for ballot papers, obtained them and polled for the respondent. In some of the above cases the petitioner's agents submitted their protests to the polling and Presiding Officers but they were not heeded. On account of the pressure tactics employed by the respondent's men in a few cases such as at Varighedu, the petitioner's polling agents could not be present even at the polling stations for some interval of time. If the votes obtained by the respondent by this malpractice and impersonation were excluded, the petitioner would have obtained a majority of the validly cast votes and would have been declared elected to the Constituency.

(2) UNDUE INFLUENCE:

Some of the landlords in the Constituency brought undue influence to bear on the economically backward sections of the community not to vote for the petitioner. They wanted some voters to desist altogether from voting and not to go to the polling stations at all. Coercion and organised intimidation were exercised on a large scale. All this was done with the knowledge, consent or connivance of the respondent or her agents. Some of those persons who committed the above corrupt practices are:—

(a) Attuli village:—

1. Kusumpudi Ramakrishna,
2. Kanumilli Venkataramayya,
3. Kanumilli Narayana Rao

(b) Penumantra village:—

4. Ragu Sitharamayya,
5. Kalidindi Venkataramaraju,

(c) Relangi village:—

6. Nadimpalli Thiupathiraju,
7. Sugineedu Satyam

The tenants were threatened by the landlords with evictions from their holdings unless they supported the respondent. The farm servants were threatened with immediate dismissal and actions for recovery of debts advanced unless they voted for the respondent. The coolies were threatened with economic boycott and non employment unless they either brought back the ballot papers to them or kept away from the polling stations. Some of these threats were, in fact, carried out. The persons in cultivation of *banjar* lands were threatened with immediate eviction unless they desisted from voting as, e.g., Binkem Venkanna in Eduru village. At Vanghedu the brick kiln of a *settibaliya* by name Venkanna was occupied by force in order to compel him not to support the petitioner. At Attuli and Penumantra, respondent's men prevented the Harijans *settibaliyas* and other economically backward sections from coming to the polling stations and exercising their franchise. At Penumantra, one Sivangula Sambamurti brought this matter to the notice of the Sub Inspector of Police in charge of the *bandobust* duty there and even filed a petition before him. Some police assistance was given but it was not sufficient to counteract the pressure exerted by the respondent's men. At Attuli also Sri N. V. N. Kapardi, on behalf of the petitioner, appealed to the police for help and filed a petition to the Sub-Inspector of Police. Later, the petitioner also complained to the Superintendent of Police. With the help of the police some voters could be persuaded to poll. But after the police withdrew, the voters were again coerced and prevented from voting. Similar acts of undue influence and coercion occurred in other villages also.

(3) VILLAGE OFFICERS:

To exercise undue influence more effectively the respondent's men enlisted the support of the Village Munsif of Relangi and the village Kanam of Oduru. These Village Officers took part in the elections actively supporting the respondent and carrying on propaganda against the petitioner. This is contrary to section 123(8) of the Act.

(4) APPEALS ON GROUNDS OF CASTE:

The respondent belongs to the Telaga community. The respondent and her agents systematically appealed to the Telaga voters in the Constituency to vote for her on account of her caste. They used to hold separate meetings exclusively for the Telagas and exhort them to vote for the respondent on account of her caste. Special appeals were made to Gandham Satyanarayana of Relangi, Sunkara Sathayya and Chikkala Venkata Rao of Polamuru, K. Subbaraju and Poliseti Apparao of Ballipadu and Koya Reddeyya of Nelamuru who are all prominent men of the Telaga community in their respective villages. The *Attuli Varthaka Sangham* is composed mainly of Telagas. They levied excess collections to the tune of two annas in the rupee in several fairs and shandies from the retail dealers and out of the moneys so collected; about Rs. 6,000 were given to the respondent for her election expenses, and Rs. 4,000 were spent by them alone for purposes of election. This

is also known to the respondent. The respondent's men got dismissed a Telaga teacher in Attali by name Addagaila Apparao of Gummaipadu for not coming forward as a Telaga volunteer to support the respondent.

(5) VILIFICATION

The respondent's men carried on a false propaganda of personal vilification directed against the petitioner by publication of false statements about the petitioner's personal character and conduct. The publication was effected by (1) speeches in public meetings, (2) mike propaganda in streets and villages, (3) wall posters, (4) pamphlets and (5) paintings on walls. This false propaganda was carried on by Messrs. Alluri Satyanarayana Raju of Jimuru and Chadalavada Pitchayya and others who are all respondent's agents. There was a dacoity at Kanchumuru village in Attali Constituency. The enemies of the petitioner falsely got him implicated in that case. Realising that the case is baseless the Government withdrew the case against the petitioner. This fact is known to the respondent and her agents but yet they carried on the propaganda that the petitioner was a dacoit and was responsible for the Kanchumuru dacoity. Similarly there were two criminal cases relating to Valimuru and Achinta Nemayalam. The petitioner is in no way connected with any of them. Yet the respondent's agents carried on propaganda that the petitioner was responsible for the offences therein consisting of grievous hurt and murder, knowing the allegations to be false. There seems to have been a dacoity at Nadipudi. The petitioner is in no way connected therewith. Yet the respondent's men propagated that the petitioner was responsible for that crime knowing the allegations to be false.

The petitioner carried on propaganda that the recommendations of the Ramamurthi Committee on prohibition should be implemented by the Andhra Government and at the same time making it clear that drinking is an evil habit which has to be discouraged. The respondent's men twisted the above propaganda of the petitioner and published that the petitioner was encouraging people to drink knowing the allegation to be false.

(6) ANONYMOUS PUBLICATION OF POSTERS AND ITALIS

The respondent and her men issued circulars, placards and posters which do not bear on their face the name and address of the printer and publisher. Schedule VIII appended to the list of particulars is a list of such publications.

(7) FALSE RETURN OF ELECTION EXPENSES

The respondent has incurred an expenditure of about Rs. 36,000 for purposes of her election. This entire expenditure has not been shown in the election return. The *Attali Kathaka Sangham* gave about Rs. 6,000 to the respondent towards her election expenses and they themselves spent for the said purpose a sum of Rs. 1,000. These amounts were not shown in the election return which amounts were also spent for financing the abovesaid corrupt and illegal practices.

4. Schedule VII appended to the list of particulars is a list of respondent's agents who carried out or organised the malpractices alleged in the petition.

5. Paras 38 to 60 of the list of particulars are more a treatise on the merits and demerits of the Communist and the Congress organisations in general and they do not refer to any acts of commission or omission of the respondent in relation to the election in question. They have no relevancy to the case and are no germane to this enquiry.

6. As the election of the respondent was procured by the abovesaid corrupt and illegal practices the petitioner seeks to get the election of the respondents set aside and himself declared as the duly elected candidate.

7. The respondent filed a counter repudiating all the material allegations in the petition. The respondent denies that she or her agents ever committed any corrupt and illegal practices and further says that the allegations were recklessly made with a view to break the secrecy of the ballot and obtain an inside knowledge as to who voted against the Communist party and thus safeguard their position for the future. The allegations of impersonation made in paras 14 to 20 of the petition are denied. The petitioner is put to strict proof of every one of the incidents mentioned in the list of particulars. Schedules I to VI are obviously incorrect and based on wrong information. Some of the names mentioned in Schedule I are not found in the electoral roll under the serial number mentioned against them in the schedule and a few of them find a place in Schedule III as well. These facts show the recklessness with which the allegations were made. Schedule VI though it purports to contain names of dead voters includes a large number of names contained in the other schedules. Fifty names found in Schedules I and III are repeated in Schedule VI. Most of the persons mentioned in Schedule VI whether dead or alive, have not voted at all. The particulars given are insufficient and improper and hence have to be struck off. It is not true that the names of persons mentioned in Schedule II are fictitious. The petitioner is put to strict proof of the same. It is also denied that the persons mentioned in Schedule III were absent from their respective stations on the date

of polling. Schedule IV shows several mistakes. With regard to item 2, the alleged second entry relates to Appalanarasamma and not to Appalamma as stated therein. Similarly, in item No. 10 for the second entry the electoral roll shows the name of Suryakantamma and not Suramma. There are several such mistakes in the schedule as is evident from the fact that some of those names are also shown among dead persons in schedules I and VI. There is really only one double entry, No. 11, in schedule IV. But in that case, only one vote was polled and not two. Full particulars are not given as regards schedule V. Further, the election in the Udi Constituency was held subsequent to the election in Attili constituency. Hence the votes polled in Attili constituency would be perfectly valid and the personation, if any, would only affect the validity of the votes in the Udi constituency. None of the voters in schedule V voted in any Constituency other than the Attili constituency.

8. The allegations about undue influence, intimidation and coercion are wholly false. It is not stated in the petition as to how the prominent persons of the locality alleged to have committed the corrupt practices are interested in the respondent. Most of them do not belong to her community. In fact, one of them, No. 5, is the brother-in-law of the petitioner and No. 6 is his first cousin. No particulars of the corrupt practice as required under the Act were given. The allegation that the Village Munsif of Relangi and the Village Karnam of Odumu worked for the respondent is false. These two village officers are neither related to, nor interested in the respondent. The allegations of personal violence are not true. The brick kiln of *sethubaiya*, Venkanna, was attached in pursuance of a Court decree against him. Nobody forcibly occupied the said kiln. The allegation that the economically backward section of the society was prevented by the respondent's men from exercising their franchise at the election is totally false. Labour in these days is too well-organised to be intimidated by any threats. 80 per cent of the voters in this Constituency exercised their franchise and it is puerile to suggest that any voter was prevented from voting. The reports said to have made to the police were also denied.

9. The allegations about appeal to communal feelings are denied. The election was fought on party basis, Congress *versus* Communist. Congress was always fighting against casteism, and caste was never pressed into service during the election. The persons mentioned in para 27 of the petition are all Communists and worked for the petitioner only. A scrutiny of schedule VII mentioning the list of polling agents of the respondent shows that most of them are from other communities and not from that of the respondent. *Attili Parthaka Sangham* consists of business men of all communities and not of Telagas only. The respondent was not aware of the existence of any such *Sangham* at the time of the election. It is not true that she received a sum of Rs. 6,000 from the said *Sangham*, for her election expenses or that the *Sangham* spent a sum of Rs. 4,000 for her election expenses. It is also not true that one teacher by name Addagarla Appa Rao was got dismissed by the respondent or her men. The respondent learns that he was removed from service on account of his misconduct, after the election.

10. It is not true that the respondent or her men carried on any propaganda vilifying the personal character and conduct of the petitioner. The election was fought purely on party lines and no personalities were mentioned or indulged in at any time during the election campaign. Messrs. Alluri Satyanarayana Raju and Ch. Pitchayya are supporters of the Congress party. The former is a Congress Member of the Parliament and is also the head of the A.P.C.C. They or any other agent of the respondent never said that the petitioner is a dacoit or that he was responsible for any criminal offences. The only propaganda made was that, as a result of the creed of violence adopted by the Communist party for a long time past, several dacoities, sometimes attended with murder, were committed. The posters mentioned in schedule VIII also give the same story of the party's activities and not of the petitioner personally. The respondent is not responsible for publishing any of the pamphlets or posters mentioned in schedule VIII.

11. The respondent or her agents did not resort to any anonymous publications. Respondent is her own election agent. The persons mentioned in schedule VII were merely her polling agents whose terms of agency do not cover any of their actions beyond the polling booth. The pamphlet, item No. 1 in schedule VIII, appears to have been issued by the Congress Committee in Hyderabad for their election in that State. The petitioner apparently secured a few copies of them and is pressing them into service in this election petition. None of the pamphlets or posters in schedule VIII were issued by the respondent or her agents.

12. The election return submitted by the respondent is true and correct. She did not incur any expenditure more than that mentioned therein. It is false to say that she incurred an expenditure of Rs. 36,000. The petitioner did not object to the election return at the earliest opportunity and is now precluded under law from questioning the same.

13. The postal ballot votes are perfectly valid. In their very nature, they require a reasonable restriction on the secrecy of the ballot as, otherwise, the valuable right of exercising the franchise by persons doing public duty outside the Constituency would be lost.

14. The respondent gave full instructions to all her agents laying stress on the scope of their agency and strictly warned them against committing any corrupt or illegal practices. The allegations made against the persons mentioned in schedule VII are vague, mischievous and are of a general nature. They do not specify the time, place and nature of the mal-practice indulged in by any of them as required under the Act. This objection is fatal to the very consideration of these allegations.

15. On a consideration of the contentions of both sides, the following issues are framed:—

1. Whether the persons mentioned in schedules I and VI attached to the petition are dead persons and whether in their names other persons applied for ballot papers and voted at the election?
2. Whether the persons mentioned in schedule II are fictitious persons and whether in those names others applied for ballot papers and voted at the election?
3. Whether the persons mentioned in schedule III are non resident voters who did not take part in the election at all but some others applied for ballot papers in their names and voted at the election?
4. Whether the names of persons mentioned in schedule IV appear twice in the electoral roll of the same village and in respect of both of which ballot papers were obtained and polled at the election?
5. Whether the names of persons mentioned in schedule V appear in the electoral rolls of different villages and in respect of both of which ballot papers were obtained and polled at the election?
6. Whether the votes referred to in schedules I to VI were got polled by the respondent or her agents or by the connivance of the respondent or her agents? Even if not, whether it offended section 124(1) and (2) of the Representation of People Act?
- (7) Whether the respondent has received a majority of valid votes. Whether the respondent would have obtained a majority of valid votes but for the alleged corrupt practices?
8. Whether the respondent or her agents or other persons with the connivance of the respondent or her agents brought undue influence upon the voters and thereby interfered with the free exercise of the electoral right?
9. Whether the Village Munsif of Relangl and the Village Karnam of Eduru assisted the respondent in furtherance of her election prospects and exercised any undue influence on the voters?
10. Whether the respondent or her agents systematically appealed to the voters to vote for the respondent on grounds of caste or community?
11. Whether the respondent or her agents carried on a propaganda of vilification against the petitioner by publishing statements which are false and which the respondent or her agents knew to be false or do not believe them to be true?
12. Whether the respondent or her men issued the circulars, placards and posters mentioned in schedule VIII and whether they offended S. 125(3) of the Representation of the People Act?
13. Whether the respondent incurred towards election expenses more than the permitted amount and whether the return of expenses submitted by her is false?
14. Whether any Government servants voted in this election through postal ballot; if so, whether the procedure followed by them offended the rule of secrecy of ballot?
15. Whether the election is materially affected by reason of all or any of the allegations mentioned in the petition?
16. Whether the petitioner is entitled to the reliefs asked for?

16. The issues were framed on 24th November, 1955. On 20th December 1955, the petitioner filed M.P. No. 20 of 1955 praying for permission to inspect the marked copies of the electoral rolls of the Constituency and it was granted on 22nd December 1955. The petitioner filed M.P. No. 21 of 1955 seeking for amendment of the list of particulars appended to the main petition. By means of this amendment, the petitioner sought to reshuffle all the schedules by adding new instances, by deleting certain instances already mentioned in the schedules and by transposing the names given in one schedule into another schedule. This petition was dismissed by this Tribunal on 7th February, 1956. The petitioner then

filed a Writ Petition in the Andhra High Court, W.P. No. 148 of 1956, to quash the orders passed in M.P. No. 21 of 1955. Their Lordships dismissed this Writ Petition but while doing so observed as follows:—

"A reading of this sub-section, section 83(2) of the Act, shows that the list should contain only full particulars of the corrupt or illegal practices. It does not in turn prescribe that the petitioner should file his separate lists of dead persons or fictitious persons or absent persons etc. who were impersonated at the election. A single list of all persons impersonated might be sufficient. Under the terms of sub-section (3) it might be open to the respondent to call for further and better particulars in regard to the details of impersonation and the Court might order such particulars. In the above view, we think that if the petitioner is able to satisfy the Tribunal that in addition to the list of dead persons given by him in schedule I, there are a number of other dead persons mentioned by mistake in the other schedules who were impersonated or on whose behalf votes were cast in favour of the 1st respondent, the Tribunal might permit such evidence to be adduced in the case. Similarly, if there are fictitious persons mentioned in schedules other than schedule II, it would be open to him to adduce evidence in that behalf. Any mistakes in the lists by reason of which there was false impersonation such as the names of the voters appearing twice in the electoral list or the voters exercising votes in two different villages in the same Constituency might also be allowed to be proved in the course of the evidence. The Tribunal will surely bear in mind that under the terms of section 83(3) no separate lists as furnished by the petitioner were required and that in that view the application for amendment was unnecessary and misconceived."

This order was passed on 20th April, 1956. After the disposal of Writ Petition No. 148 of 1956 and in view of the observations made by the High Court therein, the petitioner filed I.A. No. 3 of 1957 seeking to recall P.W. 1 with a view to put some more questions to him regarding the instances mentioned in the new schedules filed by him. The respondent contended that no reference can be made at all to the new schedules as they do not constitute part of the election petition as the amendment petition filed by the petitioner was dismissed. This Tribunal passed the following order in I.A. No. 3 of 1957:—

"But as per the terms of those (High Court's) directions, the petitioner will be permitted to lead evidence that a particular name has been mistakenly included in one schedule instead of in the other schedule. He will not be permitted to usher in new names. If he is able to satisfy the Tribunal that in addition to the list of dead persons given by him in schedule I there are a number of other dead persons mentioned by mistake in the other schedules who were impersonated or on whose behalf votes were cast in favour of the respondent, he would be permitted to adduce such evidence. Likewise, if there are fictitious persons mentioned in schedules other than schedule II, it would be open to him to adduce evidence in that behalf. He will also be allowed to prove in the course of the evidence that might be let in on his behalf any mistakes in the lists of persons by reason of which there was false impersonation, such as the names of the voters appearing twice in the electoral list or the voters exercising votes in two different villages in the same Constituency. On these conditions, the petitioner is permitted to recall P.W. 1 and examine him."

17. The petitioner carried this matter again to the High Court in C.R.P. No. 147 of 1957 under Article 227 of the Constitution of India. But it was dismissed. The petitioner filed another petition, C.M.P. No. 1066 of 1957 before the High Court, seeking to clarify the order dated 20th April, 1956 passed by the High Court in W.P. No. 148 of 1956 evidently because he was not satisfied with the order of this Tribunal passed in I.A. No. 3 of 1957. This petition also was dismissed by the High Court by Their Lordships who heard W.P. No. 148 of 1956 holding that the order passed by them was quite clear and that there was no need for any clarification. The net result of all these applications is that our order in I.A. No. 3 of 1957 stood confirmed and it was in conformity with that order, evidence was permitted to be let in about the instances mentioned in schedules I to VI irrespective of any mistakes that might have crept in as to the type of impersonation pleaded in the case. The petitioner filed I.A. No. 5 of 1957 praying to add 151 cases of new instances of impersonation on 7th February, 1957. We have dismissed that petition for the reasons stated in our order therein.

18. As the issues in this case were framed prior to the High Court's order in W.P. No. 148 of 1956, an additional issue was framed on 3rd December, 1957 by consent of both parties as regards the alleged impersonated votes, to bring the point of contest between the parties in conformity with our orders in I.A. No. 3 of 1957. The additional issue runs as follows:—

17. Whether any persons applied for ballot papers in the names of the persons mentioned in schedules I to VI, whether dead, absent or fictitious and voted at the election?

19 Issues 1 to 5 and additional issue 17—These issues deal with the question of impersonation which is one of the main points to be determined in the case and upon which a large volume of evidence, oral and documentary was let in by both sides. The following are the relevant provisions relating to this corrupt practice in the Act—

"123 *Major corrupt practices*—The following shall be deemed to be corrupt practices for the purposes of this Act—

- (8) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote."

"124 *Minor corrupt practices*—The following shall also be deemed to be corrupt practices for the purposes of this Act—

- (2) The application by a person at an election for a ballot paper in the name of any other person, whether living or dead or in a fictitious name or for a ballot paper in his own name when by reason of the fact that he has already voted in the same or some other constituency he is not entitled to vote."

"100 *Grounds for declaring election to be void*—(3) If in the opinion of the Tribunal, a returned candidate has been guilty by an agent other than his election agent, of any corrupt practice specified in section 123 but the Tribunal is satisfied—

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders and without the sanction or connivance of the candidate or his election agent,

- (c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt or illegal practices at the election

then the Tribunal may decide that the election of the returned candidate is not void

20 Section 123(3) deals with a major corrupt practice. The essential ingredient of this is that the alleged act must be done by the candidate or his agent or by any other person with the connivance of a candidate or his agent. If such an act is committed, it comes directly under section 100(2)(b) of the Act which runs as follows—

"(2) Subject to the provisions of sub section (3), if the Tribunal is of opinion—

- (b) that any corrupt practice specified in section 123 has been committed by a returned candidate or his agent or by any other person with the connivance of a returned candidate or his agent,

the Tribunal shall declare the election of the returned candidate to be void "

Even one such instance of false impersonation would be enough to avoid the entire election provided that it is proved that the returned candidate or his agent was responsible for it. The election need not be materially affected in the sense that if that particular vote is struck out, the returned candidate would get less number of votes than the defeated candidate. Section 124 (2) is a minor corrupt practice. In this case of impersonation, the returned candidate or his agent would have no hand and the corrupt practice might have been committed by some other person without the knowledge or connivance of the candidate or his agent. Such cases fall under section 100 (2) (a) of the Act which reads as follows—

"Subject to the provisions of sub section (3), if the Tribunal is of opinion—

- (a) that the election of a returned candidate has been procured or induced or the result of the election has been materially affected by any corrupt or illegal practice;

the Tribunal shall declare the election of the returned candidate to be void "

In these cases, the election has to be materially affected in the sense that if these impersonated votes were struck out, the returned candidate would not get a majority of validly cast votes. So, it is the total number of such cases that would play a large part in deciding the success or otherwise of the candidate unlike in cases arising under section 123 (3) of the Act where a single instance would suffice to set aside the entire election

21 This corrupt practice of impersonation is in the nature of a criminal offence. In fact it has been made an offence under section 171-D of the Indian Penal Code, which reads as follows:—

"171-D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election."

The person who alleges this corrupt practice must prove it beyond all reasonable doubt. The burden lies very heavily on him. It is not for the respondent to disprove it by any positive evidence if the petitioner's evidence does not establish his case with absolute certainty. The standard of proof required in cases of this kind is the same as in a criminal case, *vide Venkata Subbayya v. Nagendrudu* (1). The learned advocate for the petitioner relied on a judgment of Ramesam, J reported in *Narayanawami v. Subbarathnam* (2) and contended that in order to avoid an election it was not necessary that a conviction should have been sustainable for the offence complained of against the candidate or his agent and that it was sufficient if the Tribunal was convinced that an offence had been committed. This case was referred to by Chandra Reddi, J. in 1955 Andhra Weekly Reporter, 688 and was observed by His Lordship as follows:—

"What was ruled there was that in order to avoid an election under rule 11 (a) (Madras District Municipalities Act) it was not necessary that a conviction should have been sustainable for the offence complained of against the candidate and it was sufficient if the Court was convinced that an offence had been committed. It is manifest the learned Judge was not considering the question of standard of proof. He was dealing with the point whether the facts proved amounted to an offence within the meaning of sections 52 to 58 of the District Municipalities Act. . . . In my opinion, if the election is questioned on the ground of election offences falling under Chapter IX-A of the Penal Code, the standard of proof required should be the same as in a criminal case."

Reliance was also placed by the learned advocate for the petitioner on the observations of Umamaheswaram, J reported in *Parthasarathi v. Ramachandrarao* (3):—

"I do not agree that the election enquiry is purely of a criminal nature and that the respondents are in the position of accused."

His Lordship was not dealing in that case with the standard of proof required in cases of this kind. The stand taken by the respondents in that case was that they need not enter the witness box to disprove or contradict the several facts spoken to against them as they were in the position of accused. It was in that connection that His Lordship held that the election enquiry is not purely of a criminal nature and that the respondents are not in the position of accused persons. It is further contended by the petitioner's advocate that the proceedings before the Tribunal are essentially civil proceedings to be tried under the Civil Procedure Code and that the rules of evidence peculiar to criminal law should not be applied to them and that even a lower standard of proof would suffice to avoid an election. We cannot agree with this contention. The standard of proof does not depend upon the nature of the Tribunal which tries the case or the procedure by which it tries. But it essentially depends upon the nature of the issue arising before it. Where an allegation is made that a criminal act has been committed and that the election has to be set aside on that ground, the standard of proof required would be that as in a criminal trial.

22. There can be no such thing as general impersonation. Every case must be specifically alleged and proved by the petitioner. Particulars of the charge of personation such as the name of the voter personated, his number in the electoral roll, the date and the polling station must all be given in the list of particulars appended to the petition. Section 83 (2) and (3) of the Act states thus:—

- "(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt or illegal practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of each such practice.
- (3) The Tribunal may, upon such terms as to costs and otherwise as it may direct at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may in its opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition."

(1) 1955 Andhra Weekly Reporter, 688.

(2) A.I.R. 1929 Madras, 910 (2).

(3) 1955 Andhra Weekly Reporter, 935 at 943.

Dealing with the powers of the Tribunal to amend the pleadings, the Supreme Court in *Bhikaji Keshao v. Brijlal Nandlal* (1) observed as follows—

"There can be no reasonable doubt that the requirement of full particulars regarding corrupt practices enjoined by section 83(2) is one that has got to be complied with, with sufficient fullness and clarification so as to enable the opposite party fairly to meet them and that they must be such as not to turn the enquiry before the Tribunal into a rambling and roving inquiry."

The primary responsibility for furnishing full particulars of the alleged corrupt practices and to file a petition in full compliance with section 83(2) of the Act is on the petitioner. While undoubtedly the Tribunal has taken all too narrow a view of their function in dealing with the various alleged defects in the petition and in treating them as sufficient for dismissal the petitioner is not absolved from his duty to comply of his own accord with the requirements of section 83(2) of the Act and to remove the defects when opportunity is available.

He cannot take shelter behind the fact that neither the Tribunal nor the respondent has, in terms, called upon him to furnish better particulars. While the Tribunal has undoubtedly the power to permit amendment of the schedule of corrupt practices by permitting the furnishing of better particulars as regards the items therein specified, there is no duty cast upon the Tribunal to direct *suo motu* the furnishing of better particulars.

Where the personation is alleged to have taken place by abetment or connivance of the candidate or his agent, it is the duty of the petitioner to state the name of the agent against each particular case of impersonation. But if owing to insufficient or inaccurate information, he failed to state the name or give the name of some other agent, it was open to him to apply later when he got the correct information, for amendment of the list and inclusion of the name of the real agent who procured personation. In the absence of such application or amendment, the personation by a person not named in the list cannot be allowed. It is incumbent upon the petitioner to establish each alleged case of personation in accordance with the details furnished by him in the list of particulars. It is not sufficient if it can be shown on the basis of surrounding circumstances that some or other agent of the candidate must have had cognizance of the fact of personation. Where it is proved that a particular voter in an electoral roll died prior to the date of the election and yet his vote was polled on the election day, it may safely be presumed that his vote was personated by some one, but it does not follow from that that the respondent or her agents were responsible for this personation unless there is further proof of it. Similarly, if a voter in the electoral roll is proved to have been present on the election day at some place other than the polling station from which it would have been impossible for him to come to the polling station, exercise his franchise and then get back to that very place, it can be inferred that his vote was impersonated by some one.

23 Unlike in the case of dead voters much greater accuracy of proof is necessary in the case of absentee voters. Here again, if the respondent or her agents are to be imputed with their prior knowledge or connivance of this absence, it must be specifically proved. The electoral roll is generally presumed to be correct in respect of the various details of description of a voter and if a party challenges its correctness, the onus lies heavily on him to prove his contention. Where there are any clerical mistakes in the electoral roll, a certain amount of discretion is given to the polling officers or to the Returning Officer under rule 23(3) and section 33(5) of the Act. If an entry in the electoral roll is impugned as being fictitious, very cogent evidence has to be let in of the non existence of such person. The evidence of a person residing in the house in which the alleged impersonated voter is enumerated in the electoral roll, would be a good piece of evidence though it cannot be said to be the only mode of proof. This precaution has to be taken in assessing the evidence with regard to fictitious votes. Where the election is sought to be avoided on the ground that the respondent or her agents were responsible for any impersonation, it must further be proved that they were actuated by corrupt or illegal motives or, in other words, there was the requisite *mens rea* as in the case of any criminal offence. Where this corrupt practice is committed not by the respondent or his election agent but by some other agent and if the Tribunal is satisfied that such corrupt practice was committed contrary to the orders and without the consent or connivance of the candidate or his election agent, then the Tribunal may decide that the election of the returned candidate is not void. Bearing all these general legal principles in mind, we propose to deal with the evidence adduced by both sides on these issues.

24 Before dealing with each instance of impersonation in detail, it is pertinent to make certain general observations about the preparation of schedules I to VI. Schedule I deals with 162 cases of impersonated dead voters. A perusal of the marked electoral roll would

show that only 123 of them actually polled at the election. Schedule VI which is also a list of impersonated dead voters mentions 529 cases. Of these, only 58 have actually polled. Even out of these 58 cases 11 are repetition of cases from schedule I. Out of the total of 652 cases in schedules I and VI evidence was let in only for 56 cases. Schedule II deals with 11 cases of fictitious votes. But actual proof was let in only for five of them. Schedule III deals with 124 absentee cases but only 111 of them had actually polled. Similarly, out of 15 cases of Schedule IV, only six of them had polled. No evidence has been let in of any instances in schedule V. The petitioner has filed an amendment petition, I.A. No. 21 of 1955, for reshuffling schedules. Though this petition was dismissed, a perusal of the new schedules would show how reckless the petitioner was in making these allegations of impersonation. By schedule I(b) appended to I.A. No. 21 of 1955, the petitioner sought to delete 73 cases out of 162 and by schedule I(a) add 27 cases to schedule I. Similarly, by schedule III(a) the petitioner sought to add 45 instances and by II(b) delete six instances to schedule II. Similarly, by schedule III(a), 251 cases were sought to be added and by schedule III(b) four instances were sought to be deleted, to schedule III. 91 cases were sought to be added to schedule IV by schedule IV(a). 33 cases were sought to be added by schedule VI(a) and 73 cases to be deleted by schedule VI(b), to schedule VI.

25. A close examination of some of these schedules would show that some voters originally shown in the petition as dead were shown as fictitious in the lists sought to be amended and at the time of giving evidence they were spoken to again as dead. It is argued by the learned advocate for the respondent that taking advantage of the small margin of difference in the number of votes secured by each candidate, the petitioner made false and wild allegations of large scale impersonation without any reason to believe that his allegations were true and with a view to prejudice the Tribunal at the time the trial starts. Out of a total of 830 cases cited in the petition, evidence was let in only for 165 cases. In a majority of cases the evidence is purely oral. The best documentary evidence that could have been available was not produced. The oral evidence also was purely of a partisan type, most of the P.Ws. being the workers for the petitioner in the election campaign.

26. P.W. 1 who is the Chief Organiser in the election campaign on behalf of the petitioner states that during the period of canvassing prior to the election day, petitioner's workers went round each ward and house of every village, noted the names of deceased and absentee voters and issued chits to all other voters for identification. Other P.Ws. also have spoken about this. If that were so, every polling agent must have been supplied with this information so as to see that no impersonation takes place at any polling station. Very curiously, in this case, in spite of the alleged large-scale impersonation, there is not a single instance where a voter has been challenged before the Polling Officer, at the time of polling. In para 8 of the list of particulars, petitioner stated that his agents submitted protests to polling officers and Presiding Officers and that they were not heeded. There is not an iota of evidence let in about this. There is therefore, no doubt that the schedules were prepared without due care and attention and that large number of instances were given only as a reserve to catch at such instances as the petitioner liked when the evidence was let in.

27. It is the case of the petitioner that during the election campaign and on the polling day he or his agents did not suspect that there would be wholesale impersonation and that was why there were no challenges made of any vote before the polling officers. He further says that a few days after the counting, respondent's agents themselves were saying that they succeeded in the election because of the large-scale impersonations and that though the success was theirs, the moral victory was that of the petitioner. It is alleged that these words were uttered to the agents of the petitioner. This is rather too curious a story to be believed. It would indeed be a bravado on the part of a worker of one party to go to the worker of the other party soon after the election was over and tell him that their success was due to the malpractices committed by them. This version is not to be found in the original petition or in the list of particulars filed by the petitioner. On the other hand, in para 8 of the list of particulars, it is said that the petitioner's agents submitted protests to the polling and presiding officers and that they were not heeded and that they could not deposit the requisite fee of Rs. 10/- to each case as they had no money. This version falsifies the present story set up by the petitioner. Under these circumstances, it is but proper that we should scrutinise with greater care the evidence let in in respect of each case of impersonation and decide whether the version given is true or not.

28. Even though the number of instances mentioned in schedules I to VI are numerous, the petitioner has let in evidence only with reference to 165 cases. No evidence was let in regarding the rest. The petitioner's advocate filed a memo on 5th December, 1957 stating that he does not press the other cases as he had not let in any evidence regarding them. So, we have dealt with in this judgment about those cases alone regarding which evidence was let in by both sides. These instances may broadly be divided into four principal categories:

(a) Double votes, i.e., the same voter appearing twice in the electoral roll;

(b) Fictitious votes, i.e., fictitious names appearing in the electoral roll which do not correspond to any person alive or dead;

(c) Dead voters, and

(d) Absentee voters.

(a) Double votes—There are five cases under this category

(1) Addala Venkataswamy Schedule III S. No. 9 Exs. A32(g) and A38(e).

This voter was registered both in Relangi as well as in Vanghedu villages Exs A32(g) and A38(e) and the corresponding entries in the marked electoral rolls. Both votes were polled as can be seen from the marked electoral lists of both the villages. P.W. 78 is the voter himself. He says that he cast his vote at Vanghedu alone and that he did not go to Relangi at all on the election day. He is not aware that he has got a vote at Relangi. P.W. 81 is a resident of Relangi. He says that Addala Venkataswamy is a resident of Vanghedu which is 4 or 5 miles from Relangi and that he did not come to Relangi on the polling day or poll his vote there. This voter is the son-in-law of Rangisetty Veenanna who according to the petitioner, is the agent of the respondent but which is denied by the respondent as R.W. 83. Whatever that may be there is no denying the fact that this voter was registered at both the villages and both the votes were marked. The learned advocate for the petitioner contends that both the votes must be struck off to whomsoever they were marked. Section 62(f) of the Act runs thus—

“No person shall at any election vote in the same constituency more than once notwithstanding that his name may have been registered in the electoral roll for that constituency more than once and if he does so vote all his votes in the constituency shall be void.”

The voter P.W. 78 deposed that he voted at Vanghedu only and not at Relangi. If so, the vote at Relangi must have been impersonated by someone. Since the voter did not vote more than once in the same constituency his vote at Vanghedu would be a valid one. The vote at Relangi, i.e. Ex. A32(g) has to be invalidated to whomsoever it was marked. We therefore hold that Ex. A32(g) is not a validly cast vote.

(2) Thummalapalli Prichayya Schedule IV S. No. 1 Exs. A41(a) and A41(b).

This voter was registered twice in the same village Exs A41(a) and A41(b). P.W. 86 is the voter himself. He is a vyaya by caste. He deposed that Exs A41(a) and A41(b) relate to him only that there is no one else in his village bearing the same name, that on 18th February 1955 the date of the election he was studying at Madras in the B.A. class in the Vivekananda College that on 18th February 1955 he attended the class of analytical geometry and took down notes per Ex. A227(a) and that he did not come to Relangi on 18th February, 1955 and cast his vote in favour of any one. P.W. 17 is a resident of Relangi belonging to the same community as P.W. 86. He deposed that P.W. 86 was at Madras on the election day and did not come to Relangi. There is no evidence contra for the respondent except a bare suggestion in the course of cross-examination of P.W. 86 that Exs A41(a) and A41(b) relate to two different persons living in different houses. It is no doubt, true that Exs A41(a) and A41(b) were enumerated in the electoral roll as coming from two different houses. But P.W. 86 explains this by saying that prior to 1951 the residents of both these houses were members of a joint family residing in one house alone, that subsequently they got divided and some of them shifted to the other house and that his name was by mistake enumerated in both the houses. We see no reason to disbelieve the evidence of P.W. 86. If his evidence is believed, both the votes Exs A41(a) and A41(b) must have been impersonated by someone. Accordingly we invalidate both of them.

(3) Dadi Venkataramayya Schedule IV S. No. 5 Exs. A72(d) and A72(e)

There are two votes registered under this name in Unklh village Exs A72(d) and A72(e). P.W. 42 deposed that Dadi Venkataramayya is the son of Jaggayya who died 10 or 15 years back, and that there was only one person of that name and description in his village. The voter is a Gavara by caste. P.W. 42 is a hamma and yet he claims to know the voter as he came into contact with him as a labour contractor. This Venkataramayya is alive and has not been examined for the petitioner. P.W. 12 does not appear to know much of the family pedigree of the voter. He says in cross-examination that he cannot say how many Dadi Venkataramayyas there are in the village. The electoral roll Ex. A72 would show that these two entries relate to different houses and the ages of the voters are also different. In the absence of the evidence of the voter himself or any near relation of his, it is unsafe to rely upon the evidence of P.W. 42. We hold that both these votes are validly cast votes.

(4) Indukuri Bapiraju Schedule IV S. No. 14 Exs. A75(k) and A75(l).

These are two votes registered under this name in Oduru village, Exs A75(k) and A75(l). P.W. 27 is examined to show that he knew this voter, Indukuri Bapiraju, son of Subbaraju and that there are none else in the village of that name and description. The witness is

a washerman while the voter is a kshatriya. PW 27 is not a family washerman of the voter. He admits that there are other Baprijas and Subbarajas in the village and he cannot say when Subbaraju died. There are many kshatriyas in the village who could well have been examined about the family history of the voter. The voter is said to be alive. The electoral roll also shows that these two voters are residents in different houses. We feel it unsafe to rely upon the sole testimony of this washerman. PW 27. We therefore, hold that there is no double voting or impersonation in this case.

(5) Irugavarapu Veeramanna.

Schedule IV

S. No 15. Exs A75(m) and A75(n).

There are two votes registered under this name in Oduru village. Exs A75(m) and A75(n). The voter is a washerman. PW 27 who is also a washerman in that village deposed that he is distantly related to the husband of the voter and that there are none else bearing the same name in the village. There was no cross-examination at all about this vote by the respondent's advocate. In fact the respondent's advocate concedes in the course of his arguments that this is a case of double voting. We see no reason to disbelieve the evidence of PW 27 so far as this voter is concerned. The electoral roll also shows that both these voters were enumerated in the same house and were given consecutive numbers with the same description. There is no evidence to show that this voter polled twice. Both the votes are at the same polling station. If the same voter asked for the ballot paper twice it would have easily attracted the attention of not merely the polling officers but also the polling agents of both the parties who are expected to be on the alert at the polling booths. Further there would be the indelible mark on his thumb which can easily be noticed when the voter comes a second time for voting. It is therefore safe to presume that the real voter voted only once and that the second vote is an impersonated vote. We, therefore, hold that one of them is an invalid vote and if both of them were cast for the same candidate, one of them has to be invalidated.

(b) *Fictitious votes*—These votes are 16 in number

(1) Maddala Gopalam,

Schedule I

S. No 13

Ex. A29(c)

PW 9 is examined to show that there is no person by name Maddala Gopalam son of Swamy or any person by name Maddala Swamy in Bobbarajupalem hamlet of Relangi. The witness is said to be a caste elder in the village of the Huttan community to which the voter is alleged to belong. He admits that there is one person by name Maddala Mariamma in the village that she has also a daughter and that both of them are living together. Neither of them has been examined in the case. To prove the existence or non-existence of the relationship with the alleged voter the evidence of either Mariamma or her daughter would have been the best piece of evidence. Neither of them was examined in the case. We feel it unsafe to rely upon the evidence of PW 9. We accordingly hold that Ex A29(c) is not a fictitious vote.

(2) Kasagani Mahalaxmi

Schedule I

Item 37

Ex A45 (b).

(3) do Musalamma.

Schedule I

Item 38.

Ex A45 (c).

PW 73 is examined to show that both these voters are fictitious persons. He deposed that he belonged to the same caste as that of the alleged voters and that there are about 25 Kasagani families in the village. He says that there are 3 persons bearing the name of Kasagani Mahalaxmi. The husband of one Mahalaxmi is Gangaraju and the husbands of the other two are Anjancyulu son of Narasimhulu and Anjancyulu son of Viraswami. He says that there is no such person as Kasagani Mahalaxmi wife of Chitti Swami. As regards Kasagani Musalamma he deposed that there are two persons bearing that name and their husbands are both called Mentayyas. Kondayya is the father of one Mentayya and Surayya is the father of the other Mentayya. Kondayya and his wife died long ago. His son and daughter in law Musalamma live at Mudunur in Tadepalligudem taluk. According to him, there is no person by name Kasagani Musalamma wife of Kondayya. The names of both these voters were originally given by the petitioner in schedule I which is a list of dead voters. Subsequently, in the amendment petition filed by him he sought to transpose these names into schedule III(a) which is a list of absentee voters. Then numbers in schedule III(a) are 57 and 19 respectively. But now in evidence PW 73 deposed that they are fictitious persons. It is the case of PW 73 that about a month after the election he told Candham Satyanarayana (PW 77) who is one of the principal workers of the petitioner that these two votes are fictitious votes. If so it is not known why in schedule III(a) they were sought to be added as absentee voters. PW 73 is a young man of 20 years and professes to know the genealogies of all his caste people in the village. He says that in connection with the opening of a school in the village he collected the signatures of the villagers and in that connection he knew of these names. He is practically an illiterate man who cannot sign his name. The reason given by him for knowing the names of all his caste men in his village is not very convincing. Members of the Kasagani family would have been

the best witnesses to speak about these voters. But none of them were examined. We think it unsafe to rely upon the evidence of this young man, PW 73 who appears to be a partisan witness. We see no reason to invalidate the votes of these two voters.

(4) Mulagala Veeranna. Schedule I 54- Ex A22 (h).

PW 13 deposed that there is no person by name Mulagala Veeranna, son of Veeravva in their village. There is no person by name Mulagala Veeranna even. He gives the names of the heads of four Mulagala families in the village. Of these, one of them, Anjaneyulu, is now alive and residing in the ward in which this witness is living. This Anjaneyulu has not been examined. He admitted that he worked for the Communist party in the elections and he further deposed that he and his father were intimidated by the respondent's party to work for her. He is one of those who prepared statistics of dead voters who were impersonated at the election and also collected subscriptions in furtherance of the petitioner's election campaign. He is a highly interested witness for the petitioner. More reliable evidence was available and yet not produced. We feel it unsafe to rely upon the evidence of PW 13 and hence hold that Ex A22 (h) is a validly cast vote.

(5) Kusampudi Pothuraju. Schedule I 73 Ex A27 (b)
 (6) Alam Mangamma. Schedule I. 87 Ex A26 (a)
 (7) Gadi Lakshamma. Schedule I. 88. Ex A26 (b)

PW 4 deposed that all the three above voters are fictitious persons. He said that there is no person by name Kusampudi Pothuraju son of Satyanarayana in Attli village and that there are two Kusampudi Satyanarayanas, one of them has four sons and the other has two sons. The names of the sons of the second Satyanarayana are (1) Somaraju and (2) Madhusudhan. Somaraju is aged 20 or 25 years and Madhusudhan 18 years. RW 90 is Kusampudi Satyanarayana who is the father of the voter himself. He deposed that he has two sons, Somaraju and Madhusudhan, and that his second son Madhusudhan is popularly called in his house as Pothuraju. Ex A27 (b) related to his son Pothuraju and that himself and the said Pothuraju went to the polling station together on the election day and cast their votes. We see no reason to disbelieve the evidence of RW 90. PW 4 further deposed that there is no person in the village by name Alam Mangamma wife of Ramayya and that there is no person by Ramayya at all in the village. There are two Alam families in the village, those of Alam Duggamma and Alam Subbanna. None from these families has been examined to prove that Alam Mangamma is a fictitious person. Attli is a major panchayat having a population of about 15,000 people and PW 4 deposed that out of these 15,000, he knew about 100 or 200 persons in the village. No special knowledge has been pleaded as to why and how PW 4 could know all the residents in the village. We feel it unsafe to rely on the evidence of this witness. PW 4 lives in Ward No. 8 whereas the voter is in Ward No. 7, her house being 723 (A). PW 4 further deposed that there is only one person by name Gadi Paddayya in the village and that his wife is Satyamma aged 20 years and not Lakshamma as noted in the electoral roll. Gadi Paddayya lives in Ward No. 4 and there are about 5 Gadi families in the village living in that ward. As observed above, no special knowledge has been pleaded by this witness to know of the families in the village particularly those who are not residents of his ward. Paddayya is alive and he would have been the best witness to give the name of his wife. He was not examined. For the reasons set out above we hold that the above three voters, (5) to (7) are not fictitious persons and that their votes have been validly cast.

(8) Rotha Gangamma. Schedule I 108 Ex A19 (a).

The voter's husband is noted as Ramulu in the electoral roll. PW 1 deposed that there is no person by name Rotha Ramulu in the village and much less Gangamma. He further deposed that there are no persons bearing the family name Rotha. A perusal of the electoral roll shows that Rotha Gangamma is a resident of house No. 1332 in which five other people were noted as voters. Any person residing in this house 1332, would be the best witness to show that no person by name Rotha Gangamma lived in that village. None of them had been examined. Nor was any reason given why they could not be examined. PW 1 is a Chief Organiser of the Communist Party in the petitioner's election. PW 1 lives in ward No. 18 whereas this voter is alleged to be a resident of 13th ward as is seen from the electoral roll. There is no tangible evidence put before us that no person by name Rotha Gangamma resides in this village, which contains a population of nearly 15,000 people. We, therefore, hold that Ex A19 (a) is a validly cast vote.

(9) Bandi Sathemma. Schedule I. 130 Ex A20 (f).

The husband's name of this voter is noted as Veeraraghavulu in the electoral roll. PW 1 deposed that there is no person by name Bandi Sathemma, wife of Veeraraghavulu in his village, that Bandi Veeraraghavulu is alive and his wife is Lakshminarasappa who died 10 years back and that he did not remarry. In cross examination, he said that he does not

know whether Veeraraghavulu kept any mistress. R.W. 26 is the voter herself. She deposed that she is the kept mistress of Veeraraghavulu and was under his protection ever since the death of his wife which was about 10 years back, that she was ever since being called Bandi Sathemma, and that she and Veeraraghavulu were living together as husband and wife in the same house, that she has a daughter by Veeraraghavulu called Bandi Tulasi Swarajyam now aged 10 years, and that she is studying IV standard at Attili. Ex. A243 is a registration extract of a mortgage bond executed in her favour. It was noted therein that she is the wife of Teki Apparao and not that of Veeraraghavulu. When confronted with this document she said that she does not know anything of this transaction and that her husband Veeraraghavulu might have got that document executed in her name. The recital in Ex. A243 cannot be said to be an admission by Bandi Sathemma as it is a document executed in her favour and not by her.

R.W. 65 is the Head Master of the Board Elementary Girls' School, Attili and he produced the Admission Register of that school marked as Ex. B12. The entry Ex. B12(a) in Ex. B12 shows that Bandi Tulasi Swarajyam was admitted into the school on 8th July 1953, that she is the daughter of Veeraraghavulu, and that she was admitted into the I standard. He further deposed that she is now reading in the IV standard. We see no reason to disbelieve the evidence of R.Ws. 26 and 65. It is not denied that R.W. 26 is a kept mistress of Veeraraghavulu and that she has a daughter by name Tulasi Swarajyam. As R.W. 26 and Veeraraghavulu were living in the same house as husband and wife, there is nothing improbable that her husband's name was noted as Veeraraghavulu. R.W. 26 denied all knowledge of Ex. A243 and says that the transaction might have been entered into by Veeraraghavulu without her knowledge. There is nothing improbable in Veeraraghavulu lending moneys in the name of his mistress and without mentioning therein his connections with her. Ex. A244 is a certified extract from the House-tax Demand Register showing that the house in which this woman is living was registered in the name of Teki Sathemma and not Bandi Sathemma. There is nothing improbable in this also as Veeraraghavulu would try as far as possible to avoid publicity of his connections with his concubine. We, therefore, hold that this is not a fictitious vote.

(10) Dandi Yesobu.	Schedule I.	143.	Ex. A72 (b).
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This voter is described in the electoral roll as the son of Krupanandam. His age is shown as 23 years. P.W. 42 deposed that Dandi Yohan had two sons, Yesobu and Krupanandam and that in his village there is no person by name Dandi Yesobu son of Krupanandam. He admits that there is one Yesobu aged 25 years who is the son of Yohan and he does not say this Yesobu had not exercised his vote. This appears to be a case of a clerical mistake where the voter's father's name had been wrongly given. We, therefore, do not attach much weight to the evidence of P.W. 42. We hold that this is a validly cast vote.

(11) Vajrapu Vecramma wife of Desayya.	Schedule I.	153.	Ex. A50 (b).
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(12) Mokamati Gangamma.	Schedule I.	154.	Ex. A39 (c).
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P.W. 6 has been examined to prove that both these votes are fictitious votes. He deposed that Desayya's wife is Saripamma and not Vecramma. P.W. 6 is a Kshatriya and the voter is a Harijan. He claims to know the name of Desayya because Desayya's father Papayya worked as a farm servant under him 14 years ago. We do not think that this fact alone makes him competent to speak about the name of the wife of Desayya. Desayya is alive and has not been examined. That Desayya has a wife aged 30 years is not denied by this witness. Similarly, as regards Mokamati Gangamma, P.W. 6 deposed that Jakarayya's wife is Gantamma and not Gangamma. He does not give any special reasons to know the name of the wife of Jakarayya. P.W. 6 is admittedly a member of the Communist party who worked for the petitioner in the elections. He deposed that the petitioner consulted him at the time of drafting the election petition and in preparing the schedules and that he gave this information to him. But, curiously, this voter's name finds a place in the list of dead voters and not in the list of fictitious voters. We are not able to give credence to the evidence of P.W. 6. Hence we hold that both these votes are validly cast votes.

(13) Jenti Venkanna.	Schedule II.	1	Ex. A62 (b).
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(14) Jonnala Tulisamma.	Schedule II.	2	Ex. A76 (a).
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P.W. 11 speaks about these two votes. He deposed that there is no person by name Jenti Venkanna son of Peddayya. He also said that there is no family in his village bearing the name Jenti as house name. But when questioned in cross-examination as to how he knew about this, he admitted that he knew it only on enquiry after the elections. The persons from whom he enquired and who are the proper witnesses in this case, have not been examined. His evidence, therefore, is one of hearsay. This witness was the polling agent for the petitioner at ward No. 9 in which this voter's name is noted. He is expected to

know the names of voters in that ward and object to impersonations if any. There was no such objection. Further, he is a resident of ward No. 5 and not ward No. 9 where the voter's name was registered. It is not shown how this witness is competent to know the names of all families in the village. He further deposed that there is no voter by name Jonnala Pulusamma wife of Gopalam, that there are only two Jonnala Gopalams in the village, one is called Peda Gopalam whose wife is Venkata Narasamma, and the other is China Gopalam whose wife is Venkatamma. Neither of these two Gopalams has been examined in this case and no reasons have been given as to why they were not examined. In view of the interestedness of P.W. 11 in the petitioner, we cannot accept his uncorroborated testimony. We hold that both these votes are validly cast votes.

(15) Balam Sukavaram.

Schedule II.

11.

Ex. A75 (j).

The husband's name of this voter is noted as Gangiseti in the electoral roll. P.W. 27 deposed that there are two persons in his village bearing the name of Balam Gangiseti. One is Peda Gangiseti whose wife is Mangamma aged 40 years. The other is China Gangiseti whose wife is Chellalu. There is no person by name Balam Sukavaram wife of Gangiseti. This witness is a washerman by caste while the voter is a *settibaliya*. The witness is not even the family washerman of the Gangiseti people. Neither Peda Gangiseti nor China Gangiseti has been examined in this case. It is not shown how this witness is competent to know about the *settibaliya* families in the village. We are not convinced with his evidence and we hold that this vote is not a fictitious vote.

(16) Daram Venkamma.

Schedule VI.

228.

Ex. A49 (fi).

P.W. 18 spoke about this voter. His name is given by him as Daram Minganna son of Appulu. He deposed that his father died 10 or 12 years back and that there is no other person by name Daram Appulu. He admits his wife is Venkamma and that she is living at Kudavilli near Bhimavaram which is her mother's place. She left him three years back and went away. In the course of his cross examination, it was suggested that his name is really Appulu and not Minganna. He admits that his wife is aged about 22 years and that Gandham Satyanarayana, P.W. 77, who is one of the principal workers of the petitioner, told him that his wife has got a vote and asked him whether she would come and vote and that he told him that she was at her mother's place at Kudavilli. This was one month prior to the election. He further deposed that he never told P.W. 77 that his wife died. He does not know whether his wife actually came and voted or not. It is, therefore, evident that this is not a case of really a fictitious vote but a case of absentee vote. The voter is really the wife of this witness, though he gives his name as Minganna and not Appulu. Kudavilli is in Bhimavaram taluk in West Godavari district which is connected with Attili polling station by regular bus route. It is therefore not improbable that she would have come and voted on the election day. As stated above, there is no positive evidence on the petitioner's side that this Venkamma did not vote at the election. We therefore hold that this is a validly cast vote.

(c) *Votes of dead persons.*—The votes impugned under this head and about which evidence has been let in are 60 in number. Of these, 57 are cases from schedules I and VI, and 3 from schedule III. The oral evidence relating to these 60 cases can conveniently be grouped under the following heads:

Evidence of:

- (1) Blood-relations of voters;
- (2) Distant relations of voters;
- (3) Strangers to voters; and
- (4) Partisans of the petitioner.

There are 12 cases in which the blood relations of the voter give evidence.

(1) Yeramsetti Venkatarao.

Schedule I.

16.

Ex. A32 (a).

P.W. 15 and P.W. 7 speak about this instance. P.W. 15 is the elder brother of the voter. He deposed that the voter died 4 years back at Tanuku in the Government hospital and that he was an in-patient in the hospital for 1 day, that the corpse was taken from the hospital and burnt at Tanuku only. The Medical Registers of Tanuku Government hospital were summoned by the petitioner and they were marked as Exs. A118, A119 and A120. These registers do not show that this voter was ever admitted as an in-patient in the hospital or that he died therein. No report was also made to Relangi panchayat, which is one of the major panchayats in the district. It is suggested by the respondent in cross-examination that this voter died one year after the election. In the absence of entries in the Medical Registers of the Government hospital, it is not safe to rely upon the evidence of P.W. 15 though he is a blood relation. P.W. 7 deposed that this voter was his classmate in a private school at Relangi, that he died 4 years ago unmarried. In the course of the cross-

examination, when pressed for the details of his death, he admitted that he was not present in the village when he died and that he was told about it one year later by the kinsfolk of the voter when he returned to the village. This is purely hearsay evidence and has to be rejected. We, therefore, hold that this vote is a validly cast vote.

(2) Telagareddi Sriramulu. Schedule I. 72. Ex. A27 (a).

Ex. A286 is the entry in the death register relating to this voter. It shows that one Telagareddi Sriramulu son of Paddavya, aged 70 years, died on 7th December 1954. This entry is not disputed by the respondent. The election was on 18th February 1955 and therefore the voter must have died prior to the election. Some one must have impersonated his vote. In view of this documentary evidence, it is unnecessary to discuss the oral evidence in this case. Respondent's advocate concedes that this is a case of a dead voter. We therefore hold that this is not a validly cast vote.

(3) Gundepalli Gannemma. Schedule I. 99. Ex. A59 (a).

The voter is the father's younger sister of P.W. 33. He deposed that the voter died about 4 years ago at Attili of tetanus while she was 30 years old. He deposed that he attended to her funeral rites also. Ex. A287 is the entry relating to her death. It shows that Gundepalli Gannemma wife of Achayya died on 24th September 1954 but the age is shown as 60 years while the voter's age in the electoral roll is shown as 27. From this discrepancy, it is argued that the identity of the voter in the electoral roll with that of the entry in the Death Register is not properly established. But we think that the ages are not really a very safe guide if the other descriptions tally. We see no reason to disbelieve the oral evidence of the paternal aunt of the voter. We therefore hold that this voter died prior to the election and that some one had impersonated her vote. We therefore hold that this is not a validly cast vote.

(4) Gundepalli Vecramma. Schedule I. 103. Ex. A59 (c).

The voter's husband was examined in the case as P.W. 39. He deposed that the voter died about 9 years ago at Attili, that he married a second wife about 3 years after the death of the first wife, that he bore four children by the first wife and that the first wife Vecramma was about 30 years old at the time of her death. P.W. 11 also deposed that the voter died about 2 years prior to the election and that the voter was his family washerwoman. There is no evidence contra for the respondent. We see no reason why the evidence of P.W. 39 should not be accepted. We hold that this vote is not a validly cast vote.

(5) Bobbili Rammamma. Schedule I. 109. Ex. A19 (b).

P.W. 34 deposed that the voter is his mother's mother, that she died 3 years ago at Kudavilli which is two miles from Attili and that the voter had no other issue except his mother. He does not give either the year or the month in which she died and he roughly puts the date of death as 3 years prior to the date of his giving deposition, i.e., 26th March 1957. He does not fix the date of death in relation to the date of the election. He does not say whether it is prior to or after the election. He is the farm-servant of the father-in-law of P.W. 1, who is the Chief Organiser for the Communist party in the elections. No death extract has been filed. We feel it unsafe to rely upon the evidence of P.W. 34 who is interested in the petitioner. We therefore hold that this vote is a validly cast vote.

(6) Pothula Achanna. Schedule. 114. Ex. A64 (a).

P.W. 70 is the younger brother of this voter. He deposed that this voter died 7 years ago in his 22nd year and that he died of leprosy. The voter is 2 years older than the witness. There is no other person bearing that name in the village. P.W. 8 corroborates P.W. 70 and says that he is also related to the voter though he does not give the specific relationship. He said that he attended the funeral when this voter died. There is no evidence contra for the respondent. We believe the evidence of P.Ws 70 and 8 and hold that this voter died prior to the election. His vote is therefore not a validly cast vote.

(7) Dirisala Musalayya. Schedule I. 117. Ex. A62 (a).

P.W. 74 is the younger brother of this voter. He deposed that the voter died 3 years ago one year prior to the general elections due to accidental fall from a double bullock cart. He was separated from him but were living in adjacent houses. There is another Dirisala Musalayya, son of Vecraswamy but he resides in a different locality in Attili. He deposed that his brother was taken to Dr. Venkatarao's hospital after the fall and that he was in the hospital only for one day. There is no evidence contra. It is argued by the respondent's advocate that the hospital registers of Dr. Venkatarao would have shown whether he was really admitted

into that hospital on that occasion Dr Venkatarao appears to be a private practitioner and it may be that he might not have maintained any registers. We see no reason to disbelieve the evidence of PW 74 who is a very close blood relation of the voter. We therefore, hold that this is an impersonated vote and accordingly reject it.

(8) Kotipalli Narasamma.

Schedule I

120.

Ex. A21(b)

PW 1 deposed that this voter died about 4 years back, that she is not related to him, that he does not know her parents, and that her husband is alive. He is a Chief Organiser of the Communist party. PW 35 deposed that Kotipalli Venkanna had a wife by name Kotipalli Narasamma that she died 10 years ago and that after her death Venkanna married his younger sister Mangayamma. The second marriage took place 15 days after the death of Narasamma and Narasamma bore no issue. He further deposed that in the enquiry made by PW 1 after the elections he merely gave out the name of his younger sister but did not say whether Narasamma was alive or dead.

PW 61 is the husband of the voter. He deposed that she died 8 years ago at Attli, second wife of Venkanna. She deposed that she was called Narasamma even while she was with her parents, that she was married about 10 years ago within 20 days after the death of the first wife of Venkanna and that she cast her vote in the last general elections. We see no reason to disbelieve the evidence of RW 15. She is the wife of Venkanna from the last 10 years and there is nothing improbable in her name being in the electoral roll. PW 35 wants to put her name as Mangayamma which we cannot believe to be true. We, therefore, hold that this is not an impersonated vote and hence it is valid.

(9) Nazubunnisa

Schedule I

124

Ex. A20(d)

PW 61 is the husband of the voter. He deposed that she died 8 years ago at Attli leaving behind her a son aged 2 years, that his wife was about 20 years old at the time of her death and that he did not remarry again. He also deposed that he had no vote in the last general elections but his wife had a vote. PW 51 deposed that he knew the voter Nazubunnisa of Attli, that she died about 8 years back, that her husband's whereabouts are not known as he left Attli one year after the death of his wife and that he attended the burial ground when she died. He further deposed that Nazubunnisa would be 28 years old when she died. It is argued for the respondent that PW 61 is not really the husband of Nazubunnisa as his name is noted in the electoral roll as Imam and not Sheik Imam. We do not think that there is much of a discrepancy in this description. We see no reason to disbelieve the evidence of the husband of the voter. We hold that she died prior to the election and accordingly invalidate this vote.

(10) Peethala Navaratnamma,

Schedule I

157

Ex. A75(b)

PW 26 is the husband's brother of this voter. He deposed that his brother's wife is Peethala Navaratnamma, that she died about 5 or 6 years ago at her parents' house at Bantumilli Garuvu hamlet of Srungavruksham which is 12 miles from Oduru village, that his brother married again her sister Annapuramamma who is now aged 24 years and that Navaratnamma died when she was 30 years old. He further deposed that this Annapuramamma voted both in 1952 as well as in 1955 elections. RW 72 is the alleged voter herself. She deposed that she was married about 6 years ago, that her original name was Annapuramamma that she became a convert into Christianity at the time of her marriage and that at that time she was named Navaratnamma after the name of the first wife of her husband. She also deposed that her elder sister who is the first wife of her husband was originally called Narasamma but was renamed at the time of her conversion. She admits that she had cast her vote in the general elections. We prefer to follow the evidence of RW 72 and hold that this is a validly cast vote.

(11) Nakka Shantamma,

Schedule VI

52

Ex. A28(n)

PW 9 is a distant relation of this voter Nakka Shantamma. He deposed that this voter died about 5 years ago, that she was 50 years old at the time of her death that she left behind 3 sons of whom one of them is a police constable working at Bhimavaram. PW 12 claims to be the son of the voter. He deposed that she died 5 or 6 years ago during the winter season and that she was aged 50 years at the time of her death. He further said that his father is called as both Samuel and Devadas. Samuel Ex. A170(a) an entry in the Death register, was also filed to show that one Nakka Shantamma wife of Samuel died on 27th January, 1953 at the age of 50. Ex. A28(n) the entry in the electoral roll of this voter shows her age to be 63 and that she is the wife of Devadoss. Ex. A28(t) relates to the father of PW 12 who claims to be the son of the voter. It shows that Nakka Iazar is the son of Samuel. If PW 12 is the son of Nakka Shantamma, his father's name should have been mentioned as Devadoss and not Samuel. It is to get over this discrepancy that

P.W. 12 deposes that his father is also called Samuel Devadoss. A perusal of the electoral roll further shows that this Nakka Shantamma was enumerated in house No. 1-5-1943 whereas P.W. 12 was enumerated in house No. 1553. This discrepancy has not been explained by P.W. 12 as to why the names of himself and his mother were found in two different houses. While the age in Ex. A170(a) is shown as 50, the age in Ex. A28(n) is shown as 63. In view of the several discrepancies we cannot give credence to the evidence of P.W. 12. It is doubtful whether P.W. 12 is really the son of Nakka Shantamma. We, therefore, hold that this is a validly cast vote.

(12) Singamsetti Satyam.

Schedule VI.

110.

Ex. A42(d).

This is a peculiar case where the father gives evidence for the petitioner and the son for the respondent. P.W. 23, the father of the voter deposed that the voter died 4 months prior to the election, that he asked his second son Dorayya to report the matter to the village officers, that prior to the death the voter was treated by a homeopathic Doctor Suiapanaju, Penumarthi. R.W. 89 is the 2nd son of P.W. 23 and the younger brother of the voter. He deposed that the voter died two months after the election day and that he did not report the death of his brother, to the village officers. He further said that his father is a simpleton being very old though he is the manager of the family. He said that he personally saw his brother going to the polling booth and exercising his franchise. We prefer to follow the evidence of the son rather than that of the father. If really a report was made to the village officers, it would have been found in the Death register. But no such document has been filed in this case. Further, the homeopathic doctor who is said to have examined this deceased voter could have been the best witness to show the time of the death. It is an admitted fact that the voter died, but the father puts it at four months prior to the election while the son puts it at two months after the election. For the reasons stated above we hold that this is a validly cast vote.

There are six cases of dead voters spoken to by distant relations.

(1) Rapaka Venkamma.

Schedule I.

Item 9.

Ex. A40(a).

The voter is P.W. 43's wife's elder sister's daughter's daughter. Her husband is John. P.W. 43 deposed that this Rapaka Venkamma died 4 years ago and that she was present at the time of the burial. John the husband of Venkamma married again Sathemma who deserted him two years after the election. John married again a third wife Nagaratnamma. P.W. 43 further deposed that John and his two brothers are now alive and are working in the sugarcane gardens at Bhimavaram West Godavari district. Venkamma has also got a sister who is 16 years old and is living at Penumantra which is within Attili constituency. Sattemma was living with John at the time of the last general elections. Neither John nor his two brothers nor the sister of Venkamma who is living at Penumantra nor Sathemma were examined in this case to prove the death of Rapaka Venkamma. P.W. 43 is a very distant relation. No reasons have been assigned as to why the nearest relations, have not been examined. It is admitted that there are about 10 Rapaka families in the village. We do not, therefore, give much credence to the evidence of P.W. 43. We hold that this is a validly cast vote.

(2) Kasagani Lakshmayya.

Schedule I.

47.

Ex. A22(e).

The father of this voter is Mentayya. Mentayya's mother is Veeramma. Veeramma is P.W. 21's mother's elder sister. P.W. 21 deposed that this voter Kasagani Lakshmayya died 6 years back at Relangi, that he was present at the time of the burial, that his house is 15 or 16 bars from Lakshmayya's house, that Lakshmayya has a brother Veeranna who gave a report to the Panchayat Board about the death of Lakshmayya. The brother is alive and has not been examined. The report said to have been given by him to the Panchayat Board Office has not been filed in this case. No entries have been marked relating to this case in the Death register of Attili village for the corresponding year. P.W. 21 says that Lakshmayya's wife is Narasamma but we find it noted as Kasagani Venkayamma, Serial No. 102 in Ex. A22. He is one of those persons who had been enquired by Gandham Satyanarayana (P.W. 77) the information about certain voters after the election. He cannot be said to be such a disinterested person as he claims himself to be. For the reasons stated above we hold that it is not safe to rely upon the evidence of P.W. 21. We accordingly hold that this is a validly cast vote.

(3) Yekula Sattemma.

Schedule I.

81.

Ex. A24(b).

P.W. 10's elder brother's daughter is married to this voter's son. P.W. 10 deposed that she died six years back and that he was living two houses off from the house of this voter. Sattemma's son Thammuraju is now alive, and yet, he has not been examined. P.W. 50 says that P.W. 10 is one of those persons who investigated on behalf of the petitioner about the death or absence of the voters. Evidently P.W. 10 is interested in the petitioner. It

is not shown why Sathemma's son who is the best witness in this case was not examined. We therefore feel it not safe to rely upon the evidence of PW 10. No other evidence has been adduced in this case. We hold that this is a validly cast vote.

(4) Chatrathi Atchutam, Schedule I, 144 Ex A73(a)

P.W. 42 is a distant relation of this voter. He deposed that she died about 5 years ago in her 25th year of child birth, that she was taken to the hospital at Bhimavaram but that she died on the way and her corpse was brought back to the village in a cart. Her husband is Manikyam who is now aged 34 or 35 years and is alive. He has not been examined. There are a number of Chatrathi families in the village. No near relation of the deceased voter has been examined to prove the time of death. We feel it not safe to rely on the evidence of PW 42 and hence hold that this is a validly cast vote.

(5) Pasupuleti Anjaneyulu, Schedule VI, 24 Ex A32(c)

This voter is the junior paternal uncle of PW7's co brother Pasupuleti Ayyanna. PW 7 deposed that this voter died about 9 years ago and that he also attended the obsequies. PW 31 deposed that the voter is his paternal aunt's husband and that he died about 9 years ago at Relangi and that he also attended the funeral rites. Ex A165(a) the entry in the Death Register shows that this voter died on 19th July 1948. There is therefore, clear evidence in this case that the voter died long prior to the election. We therefore hold that this is not a validly cast vote.

(6) Gadiraju Subbayya, Schedule VI, 190, Ex A48(b)

This voter's son-in-law Penumatcha Appalaraju is the son of PW 30's father-in-law's elder brother. PW 30 deposed that this voter died 4 years ago and that he attended her cremation. The entry in the Death register relating to this voter is marked as Ex A122(a). It shows that one Gadiraju Subbayamma, wife of Veerraju, died on 27th October 1952. We are convinced with the evidence of PW 30 coupled with Ex A122(a) and hold that this voter died long prior to the election. We therefore hold that this is not a validly cast vote.

There are 11 cases of dead voters spoken to by strangers who are not related to the alleged deceased voters. Persons who are generally competent to speak about the death of a person are either the members of the family or persons who have otherwise special means of knowledge about the death. Any other evidence left in has to be scrutinised with much greater care.

(1) Sunkara Ramanna, Schedule I, 70 Ex A27(c)

PW 10 deposed that he lives in the same line in which the voter lived and that he died two years prior to the election. The voter is a *kamma* while the witness is a *golla*. The voter's wife is alive but has not been examined. There are other blood relations of the voters also at Attili. Attili is a major panchayat and it is not shown why a report has not been made to the panchayat about the death of this voter. We feel it unsafe to rely upon the evidence of this stranger as to the time and date of the death of this voter. We accordingly hold that this is a validly cast vote.

(2) Attili Nagamma, Schedule I, 100 Ex A59(b)

(3) Attili Mahalakshmi, Schedule I, 102 Ex. A59(d)

These two names were originally shown in schedule I as dead voters. They were subsequently deleted by schedule I(b) and added as schedule III(a) as items 146 and 148, as absentee voters but PW 90 deposed that both these voters are dead. PW 90 is a kapu and these voters are washerwomen. PW 90 deposed that Attili Nagamma wife of Subbanna died about 8 or 9 years ago at Attili in her 30th or 35th year but she was shown in the electoral roll as 21 years old. He deposed that she was his family washerwoman. He did not attend the cremation. There are about 100 washerman families at Attili bearing the same house name as Attili. PW 90 further deposes that Subbanna, husband of Nagamma, died about a year prior to the elections and that he left behind two sons aged 20 years and 16 years. This conflicts with the age of Nagamma given in the electoral roll as 21 years as she could not have left behind such aged children if she died 8 or 9 years ago. He is not able to give the year of the death of these voters. In the case of Attili Mahalakshmi PW 90 deposed that she died about 4 or 5 years ago at Attili in her 30th year. PW 9 is the voter herself. She deposed that her husband's name is Subbarao, that she was married 10 years ago, and was ever since living in her husband's house, that she is the first and only wife and that she never washed the clothes of PW 90. It is suggested that her husband had a first wife by name Mahalakshmi and that this witness is his second wife, but she flatly denied in her evidence. It is not stated in the

evidence of P.W. 90 that Subbarao had two wives and that this voter was his first wife. In view of the evidence of R.W. 9, we cannot place any reliance upon the evidence of P.W. 90. We, therefore, hold that both these votes are validly cast votes.

(4) Mehomed Imam Bibi. Schedule I. 125. Ex. A20(e).

P.W. 51 deposed that this voter is the wife of one Ayub Khan of Attli, that she died 6 years ago when she was 60 years old, that Ayub Khan died 4 years back and that he attended the burial when Hamam Bibi died. Hamam Bibi is not related to this witness. She has 4 sons and 3 daughters who are all aged people ranging between 30 to 40 years. None of them has been examined though they are living at Attli. No reasons have been assigned for their non-examination. This witness (P.W. 51) though he denies that he has worked for the petitioner in the elections, was found to be actively assisting the petitioner's advocate during the conduct of the case. When R.W. 21 was being examined this witness (P.W. 51) was found in Court and it was suggested by the respondent's advocate that it was P.W. 51 that turned the witness hostile. That he was found in the Court hall and was inspecting the electoral rolls along with the petitioner during the conduct of the case was made note of in the deposition of R.W. 21. In the absence of the evidence of the blood relations, it is unsafe to rely upon the evidence of P.W. 51. We therefore hold that this is a validly cast vote.

(5) Ganni Ramamurthi. Schedule I. 142. Ex. A72(a).

(6) Upperala Subbamma. Schedule I. 146. Ex. A75(c).

P.W. 42 deposed that Ganni Ramamurthi died about 6 or 7 years ago, that he died unmarried, and that as he had no relatives he arranged for his funeral. In cross-examination, he admitted that the cousin brother of the deceased Ramamurthi attended the funeral. Veeramma the mother of Ramamurthi is alive. There are agnatic relations of Ramamurthy and yet, none of them was examined. It is hard to believe that when there are so many relations of Ramamurthy that a stranger like P.W. 42 would have arranged for the funeral. In the absence of the evidence of blood relations we cannot accept the evidence of P.W. 42. The same witness deposed that Upperala Subbamma, wife of Bapayya died about 5 years ago in her 50th year and that Bapayya did not marry again. Bapayya is alive. He has also a son aged 25 years. Neither of these two has been examined in the case. Ex.A185(a) has been filed to show that this voter died on 5th November, 1954. But no satisfactory evidence has been adduced connecting this entry Ex.A185(a) with the voter in question. The voter's age in the electoral roll is 46. P.W. 42 deposes that she died in her 50th year. Ex.A185(a) shows that Upperala Subbamma died in her 60th year. The electoral roll shows another entry, Ex.A78(c) as Upperala Subbamma, wife of Bapayya, aged 30. In view of the several conflicting versions it is doubtful whether the person referred to in Ex.A185(a) is the same as the voter in question. We therefore hold that no satisfactory evidence has been put before us of the date of death of Upperala Subbamma. Hence we hold that both the above votes are validly cast votes.

(7) Indukuri Narasamma. Schedule I. 160. Ex. A75(e).

P.W. 27 is a washerman. He deposed that Indukuri Narasamma, wife of Sitharamaraju, died about 5 years ago and that he attended the cremation ground as that family washerman. The husband of this voter Sitharamaraju is alive. He says that this Sitharamaraju married again 2 or 3 years back and that he does not know the name of his second wife. R.W. 77 is the husband of the voter herself. He deposed that the voter is his second wife and that he married her 7 years ago and that her age now is 26 years. His first wife is Appalanarasayamma and not Narasamma and that his second wife cast her vote in the last elections. He further deposed that P.W. 27 was discharged from his service as washerman even during the life time of his first wife. We prefer the evidence of the husband to that of P.W. 27 and hold that this is a validly cast vote.

(8) Siravarapu Suramma. Schedule III. 72. Ex. A53(c).

P.W. 87 deposed that Siravarapu Suramma wife of Appalaswamy died about 10 years ago. 5 or 6 years later, he married another girl by name Suramma. This Suramma II deserted her husband about a year prior to the general elections. About 1½ months after the elections, Appalaswamy married another girl called Suramma III. This Suramma is now 21 years old. It is not shown how this witness is competent to speak of the family history of this voter. He is not in any relation to them. Nor has he any other special means of knowledge.

R.W. 24 is the husband of Suramma. He deposed in chief-examination that his first wife was Appalamma who died 15 years ago, that he married again a second wife called Suramma, that she eloped with somebody, and hence married a third wife called Suramma II, about 10 years ago and that this Suramma was living with him at the time of the elections and that she cast her vote. But he turned hostile during the cross-examination. He deposed that Suramma II is about 30 years old and not 21 years and that he does not know if Suramma

I is alive or dead. The evidence of R W 24 is not very convincing. But there is no clinching evidence let in by the petitioner to prove that the voter in question has actually died. It may be noted that the name of this voter was originally given in schedule III which is a list of absentee voters. It was not sought to be deleted or added by either schedule III (b) or schedule I (a). But the evidence now is that she is dead. In view of all these discrepancies, it is doubtful whether this voter is really dead. For want of proper evidence on behalf of the petitioner, we cannot hold that this is an impersonated vote. Hence this vote will have to be treated as a valid vote.

(9) Dirisapu Chinnayya	Schedule VI	103	Ex. A42(b).
(10) Dirisapu Achamma	Schedule VI	225	Ex. A49(d).

P.W. 24 deposed that Mentamma is his sister and that she married Dirisapu Chinnayya of Relangi. This Chinnayya died about 4 years back. Chinnayya has a younger brother Musalayya. Musalayya had a wife Achemma and this Achemma died prior to elections and has predeceased Chinnayya. Musalayya married again two months after the death of his wife, the girl called Vajamma from Tanuku. He is not able to give the year or the month in which Chinnayya died. Chinnayya's wife Mentamma is now alive and is 40 years old. Musalayya's wife Achemma would be 25 years old when she died. There are three Dirisapu Musalayas in the village and P.W. 24 cannot give the names of their fathers or their wives except that of Achemma.

The respondent examined R W 35. He deposed that Dirisapu Chinnayya is his paternal uncle's son. Musalayya is Chinnayya's younger brother. Achemma is the wife of Musalayya. Chinnayya died about 8 months after the last elections and he cast his vote in the elections. This witness was present at the polling station then. Musalayya, husband of Achemma is alive. R W 35 further says that this voter Achemma is now alive and living in her parents' house at Tanuku and that she was at Relangi on the date of the election and cast her vote. This witness also cast his vote, Ex A42(f). In view of the close relationship of R.W. 35 with these two voters, we prefer his evidence to that of P.W. 24 and hold that these two are validly cast votes.

(11) Pasupuleti Ranganamma	Schedule I	33	Ex. A31(a).
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P.W. 7 deposed that this voter died 3 years ago in her 70th year. Two of her sons aged 40 and 50 years are alive. During the course of his cross-examination, he admitted that he knew of her death only a week prior to the date of his giving deposition in Court. It is purely hearsay evidence. He is not personally aware of it. His evidence therefore is of no value. R.W. 43 is the son of the voter herself. He deposed that the voter died 2 or 3 months after the election in very ripe old age, that she had cast her vote and that he was the watchman at the females booth whereat his mother voted. We prefer to follow the evidence of the son and hold that this is a validly cast vote.

There are 31 cases of dead voters spoken to by persons who are interested in the petitioner or in his party and who actively worked for him in the election campaign.

(1) Undrajavarapu Subbayya	Schedule I	5	Ex. A38(c).
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This voter is an Adi-Andhra. P.W. 22 says that the voter worked as his farm servant and that he died about 6 years back, that his wife eloped with some one even during his life time, that she is now alive and that her whereabouts are not known. During cross-examination he admitted that he is not personally aware of the death and that the daughter of the voter told him about it. Hence his evidence has to be rejected as being purely hearsay. The daughter or the wife of the voter is not examined. Further, this witness P.W. 22, is very much interested in the petitioner. He is President of the District Tappers' Association and the petitioner is the President of the Provincial Tappers' Association. This association actively worked for the petitioner in the elections. P.W. 22 is also the polling agent of the petitioner, Ex B 20. R.W. 81 is the junior paternal uncle of the voter. He deposed that the voter was alive during elections and that he died only a year later. We therefore prefer the evidence of R.W. 81 and hold that this is a validly cast vote.

(2) Geddam Dandemma	Schedule I	6	Ex. A38(d).
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The same witness P.W. 22 speaks to this voter also and he admits in his cross-examination that the husband of the voter told him about the voter's death. The husband is alive but not examined. R.W. 82 who is the voter's husband's paternal uncle's son deposes that the voter was alive during the elections, that she cast her vote, and that she died only after the elections. We prefer to accept the evidence of R.W. 82 hold that this is a validly cast vote.

(3) Nulu Ratnamaniyam	Schedule I	27	Ex. A44(a).
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P.W. 17 deposed that this voter Nuli Ratnamaniyam wife of Rangayya died 4 years back at Relangi, that she has a son aged 26 years old and is now living at Relangi. He claims to know the death of this voter as himself and the voter's son are friends and that he went and consoled the son when the voter died. Ex.A124(a) was also filed on behalf of the petitioner which is an entry in the Death register. It shows that one Nuli Ratnamaniyam, wife of Rangayya died at the age of 60 on 1st February 1955. The electoral roll shows the age of the voter to be 31 years. In view of the vital discrepancy in the age, petitioner conceded that he is not relying upon Ex.A124(a) to prove the death of this voter. P.W. 17 says that Nuli Ratnamaniyam who died, has a son 26 years old. Evidently this cannot fit in with the voter whose age was noted as 31 years in the electoral roll. So, evidently this witness must have been speaking of some other Ratnamaniyam than this voter. The son has not been examined in this case. We therefore hold that it has not been conclusively proved that this voter died and hence hold that this is a validly cast vote.

(4) Kapakavala Subbanna Schedule I 45 Ex. A47(c).

P.W. 56 deposed that this voter died 15 days prior to the election at Relangi, that he lives about 100 yards away from his house and that his wife's grandfather and Subbanna's wife's grandfather are brothers. In cross-examination, he stated that he does not know the grandfather of his wife or of the wife of Subbanna or how these grandfathers are related to each other. Subbanna has adopted a boy from Yerramsetti family aged 17 or 18 years and he is said to have performed the obsequies. Subbanna's wife Anjamma is alive. A number of Yerramsetti people attended the obsequies. None of them have been examined in the case and no reasons have been assigned for their non examination. This witness is very much interested in the petitioner. He worked as his polling agent in the elections. One Vanka Satyam is the son of his co brother. This Vanka Satyam was every day present in Court and actively helping the petitioner's advocate in the conduct of this case. This witness, P.W. 56, is also one of the accused belonging to the petitioner's party in the affray case filed by the police in connection with a clash during the election campaign. Vanka Satyam was a Communist candidate for Pennugonda constituency in the West Godavari district. Ex.A123(b) is the entry in the death register of Relangi village. It shows that one Papakavala Subbanna of Relangi aged 60 years died on 5th December 1954. It is not shown that the voter in question is the same as the person referred to in this entry. The petitioner's advocate in the course of arguments did not rely upon this entry to prove the date of death of this voter. In view of the interestedness of P.W. 56 and also the non-examination of the available blood relations in the case, it is hard to believe the version of P.W. 56, as regards the date of death of this voter. We, therefore, hold that this is a validly cast vote.

(5) Mudugundi Veeranna Schedule I 53 Ex. A22(d).

(6) Sirigineedi Ramanujamma Schedule VI 201 Ex. A23(b).

P.W. 3 deposed that Mudugonda Veeranna died about 5 years ago at Relangi, that his house is about a furlong from the voter's house, and that he attended the funerals. R. W. 34 is the son of the voter. He deposed that his father died four months after the election, that on the election day he went to the polling booth and cast his vote, that he himself led his father to the polling station and that it is not true that his father died 5 years ago. There is no reason to disbelieve the statement of the son. P.W. 3 is a worker for the Communist party in the elections. It is not safe to rely on his evidence. P.W. 3 further deposed that Sirigineedi Ramanujamma died about 4 years ago and that he attended her funerals. Her husband is Subbarao and he is alive. The voter is not, in any, related to the witness. There are 10 or 15 Sirigineedi families in the village and many relations are said to have attended the funerals. Neither the husband nor the other relations who attended the funerals, were examined in this case. As stated above, this witness P.W. 3 is very much interested in the petitioner. We feel it unsafe to accept his testimony. We, therefore, hold that both these votes are validly cast votes.

(7) Kalidasu Durgamma Schedule I 82 Ex. A26(c).

(8) Kalidasu Nagamma Schedule I 85 Ex. A26(f).

These two voters are *Dommaras* by caste. P.W. 20 is the only witness who speaks about the death of these two voters. P.W. 20 is a *golla* and a tailor by profession. He claims to have knowledge of the death of these voters because he used to stitch clothes to these *Dommaras*. P.W. 20 deposed that Kalidasu Durgamma died about 5 years back at Attili. He admits that Duragamma's father, mother, paternal uncle and brother are all alive and living at Attili. He says that Durgamma's father Pallayya asked him for a subscription for the funeral of Durgamma and that he paid 8 annas and that was how he knew about the death. There are 10 or 15 *dommara* families in Attili village all living in the same street, and yet, none of them have been examined. This witness is a candidate member of the Communist party and has worked for the petitioner in the elections. P.W. 20 further deposed that Kalidasu Nagamma wife of Nagayya died 6 years back at Attili. But

in cross examination, he stated that about one month after the election, P.W. 1 asked him to enquire about this voter and that, on enquiry, he learnt that she died about 6 years back. That was is only knowledge of the death of Nagamma. This evidence is purely hearsay and has to be rejected.

R.W. 13 is the father of the voter Durgamma. He deposed that she died a year ago, i.e. 10 days prior to Vinayaka Chavithi, that she was alive on the eve on the general elections and that she did cast her vote. He denies any knowledge or acquaintance with P.W. 20 or that P.W. 20 ever gave him any money for funeral expenses of his daughter. He further deposed that the other voter Nagamma was alive on the date of the elections, that she migrated to another village, Banagula Pentapadu, only a year ago and that she died at that village and that he also attended her obsequies. He is positive that she cast her vote on the election day. There is no reason to disbelieve the evidence of R.W. 13. We therefore hold that both these votes are validly cast votes.

(9) Mutyala Mangamma Schedule I 107 Ex.A61(a).

P.W. 11 deposed that Mutyala Mangamma wife of Satyam died 7 or 8 years ago, that he married a second wife, that she also died and he married a third wife. He says he is distantly related to the husband of the voter. He worked as the polling agent for the petitioner for ward No. 19 and was also working for the petitioner for some days prior to the election. R.W. 14 is the husband of the voter. He deposed that his first wife Mangamma died 7 years ago, that he married a second wife, Mangamma II, 20 days after the death of the first wife, that this Mangamma died on 30th October 1956 and that he married a third wife 20 days after the death of his second wife. He also proves Ex. B5(a) an entry in the Death Registrar of Attilli village. Ex. B5(a) shows that Mutyala Mangamma wife of Satyam died on 30th October 1956 at the age of 20. There is no reason to disbelieve the evidence of R.W. 14 coupled with Ex. 85(a). We, therefore, hold that this voter was alive at the time of the elections and that the vote is a validly cast vote.

(10) Thota Veeramma Schedule I 122 Ex. A20(b).

P.W. 8 deposed that Thota Veeramma died 1½ years prior to the last election and that he attended her funerals and that his house is about 200 yards from her house in the opposite street. He further deposed that this voter Veeramma was eking out her livelihood by vending Bengal-gram, that he does not know the names of all her relatives who attended the funeral, and that he does not know if this Veeramma had a son by name Thota Venkataswamy. R.W. 74 deposed that he knows Thota Veeramma, that her house is in a lane to the left of his house in the same ward, that she had a son by name Venkataswamy who is alive, that he does not know the mother of Veeramma, that Veeramma did not predecease her mother, and he remembers to have identified the voter on the day of the elections when she came for voting and that he learnt that she died only about 7 or 8 months back. It is, no doubt, true that R.W. 74 is interested in the respondent. P.W. 8 is also equally interested in the petitioner. The petitioner has not chosen to examine any of the blood relations of the deceased Veeramma nor was any death extract filed. In the absence of convincing evidence, we hold that the petitioner has not been able to prove the exact date of the death of this voter. Hence we hold that this is a validly cast vote.

(11) Komatilanka Anantalaxmi Schedule I 148 Ex. A 74(a).

(12) Ravada Talupulamma Schedule I 149 Ex. A74(b).

P.W. 29 deposed that Komatilanka Anantalaxmi wife of Simhadri died at Alamuru 3 years ago and that he learnt about her death from her husband who sought his aid for some funeral expenses. This Simhadri is a tailor and alive. He has no personal knowledge of this death and his evidence is purely, hearsay. R.W. 68 is the voter herself who says that her husband's name is Simhadri, that Simhadri married a first wife Kantamma and that after her death she was married to him about 6 years ago. She had a son who died 5 years back. She has now a daughter aged 2 years. This witness is now aged 25. Simhadri had a son aged 10 years by his first wife Kantamma. She further deposed that she went to the polling station on the polling day and cast her vote and that her husband also had accompanied her. There is no reason to disbelieve the testimony of R.W. 68.

P.W. 29 also deposed with regard to another voter, Ravada Talupulamma. He says that this voter who is the wife of Achenna died about 4 or 5 years back and that the voter and her husband were doing agricultural work under him. Achenna married a second wife called Chittemma after the death of his first wife. This P.W. 29 gives a peculiar version about the impersonation of this voter. He has a positive case that Chittemma the second wife of Achenna impersonated Talupulamma, the voter, on the election day. He says that he challenged this vote when Chittemma asked for the ballot paper, that he deposited Rs. 10 before the polling officer as required under the rules and owing to his objection the polling officer took back the paper from Chittemma and asked Chittemma to whom she would vote, that she stated that she would vote for Congress, that he then asked her to

go away and that at the end of the day, when the polling was about to be closed, the polling officer requested this witness not to challenge this vote and that he put the ballot paper into the Congress box in his presence and refunded the Rs. 10 deposited by him. As everybody at the polling booth asked him to keep quiet he did so. He did not tell this even to the petitioner after the election was over. This is a very curious story to be believed. There is absolutely no corroboration to what P.W. 29 says. It is hard to believe that a polling officer would refund the challenge fee if he really had accepted it. It is also difficult to believe that P.W. 29 would keep quiet when the vote was being put in the Congress box. Ex. A71(b) shows that the vote of Ravada Talupulamma had not been cast at all. Against her name ballot paper No. 700 was put and it was struck off and initialled by the polling officer. We find this No. 700, put against the vote of one Medapureddi Buchemma, Ex. A74(d). If it is the case of the petitioner that Medapureddi Buchemma did not cast her vote at all, he ought to have proved the same to show at least that there is some probability in the evidence of P.W. 29. As such, this is a case where no vote has been cast for Ravada Talupulamma. As such, the question as to whether she died or when she died does not arise. We therefore hold that the vote of Komatilanka Anantalaxmi is a validly cast vote and that Ravada Talupulamma's vote was not cast at all in favour of any candidate.

(13) Boddu Yerramma Schedule I 150 Ex. A74(c).

P.W. 29 deposed that Boddu Yerramma, wife of Appalaswamy died about 20 years ago and that within two years after her death, Appalaswamy married a second wife by name Kannamma, that Appalaswamy also died about 14 years ago, and that Kannamma has two daughters. This witness does not know who impersonated Yerramma. The first electoral roll was prepared in or about 1950 after the Representation of People Act had been passed. If the second wife of Appalaswamy was married about 18 years, her name would be in the electoral list and not that of the first wife who died about 20 years ago. Even Appalaswamy died prior to the preparation of the electoral roll. It is probable that the name of Appalaswamy's second wife is Yerramma and not Kannamma. Kannamma is alive and her daughters also are alive. None of the blood relations of Appalaswamy have been examined by the petitioner. We, therefore, feel it unsafe to act upon the uncorroborated testimony of P.W. 29 whose evidence, as we have observed above, is very much interested in the petitioner and improbable also in many respects. We, therefore, hold that this is a validly cast vote.

(14) Bandi Maremma Schedule I 156 Ex. A75(a).

P.W. 28 deposed that Bandi Maremma wife of Pothayya died about 5 or 6 years ago in the village, that she is Yerukula by caste, that his house is about 10 yards away from the house of Pothayya, that Maremma was 35 years of age at the time of her death, and that there is only one Yerukula family in the village. Pothayya has two daughters and two sons who are alive. It is true that none of these blood relations have been examined. But this death is otherwise proved by an entry in the death register Ex. A145(a). This shows that Bandi Maremma, wife of Pothayya died on 27th March 1950. The age is put at 60 in Ex. A145(a). But the electoral roll shows the age to be 46. By this discrepancy alone we cannot say that this entry Ex. A145(a) does not relate to the voter in question. We hold that this voter died on 27th March 1950 and hence reject this vote as being invalid.

(15) Geddada Paramjyothi Schedule I 152 Ex. A30(a).

P.W. 6 deposed that Geddada Paramjyothi wife of Abraham died about 6 years ago in her 40th year. The witness is a Kshatriya and the voter is a Harijan. He says that he would be frequently going to the Harijan quarters in connection with the problems of Harijans and that was how he came to know of the death of the voter. He is a member of the Communist party and also the President of the Panchayat Board elected about 3 months ago by defeating a Congress candidate. He says he learnt of the death and condoled the husband. He does not remember the year or the season in which she died. The husband is alive. It is said that he married a second wife also. There are a number of caste elders in the village, who have not also been examined. In view of the interested testimony of P.W. 6, we cannot accept his evidence and we therefore hold that this is a validly cast vote.

(16) Netipudi Musalamma Schedule III 110 Ex. A66(c).

P.W. 66 deposed that Netipudi Musalamma is his elder sister and is the wife of one Musalayya, that Musalayya is not called Gangayya. In Uradalapalem which is about a mile from Attili there was one Netipudi Gangayya whose son is Musalayya. This Musalayya married P.W. 66's sister Musalamma. P.W. 66 deposed that this Musalayya is not called Musalamma and that his sister Musalamma died at Reddisceema prior to the election date. R.W. 59 is the voter himself. He deposed that he is living at Attili for the last 15 years, that his father's name is Gangayya and his wife's name is Venkamma, that he was living at Tanuku during the election days working in a rice mill, and that his wife was living at Attili in his own house, and that he and his wife had both cast their votes on the election

day. He further says that P.W. 66's sister Musalamma is the wife of one Musalayya who belongs to Uradalapalem and resides there. This Musalayya's father is Bhimayya and not Gangayya. Ex. B9(a) which is the entry in the electoral roll relating to Uradalapalem shows that this Musalah son of Bhimayya has got a vote in that village. Ex. B10(a) also shows that Musalayya's wife Musalamma has also got a vote at Uradalapalem. Ex. B11(a) relates to the vote of Venkamma, wife of R.W. 59 at Attili. Evidently P.W. 66 was referring to his sister's vote in Uradalapalem, Ex. B10(a) which was not cast at all by any one. There seems to be a confusion between the names of Musalamma and Musalayya. Ex. A66(c) shows that this voter Netipudi Musalamma is a male. P.W. 66 deposed that he is called Musalamma as well as Musalayya. On a perusal of Exs. B9(a), B10(a), and B11(a) and A66(c) the petitioner has not pressed his contention as regards this vote. Hence we hold that this is a validly cast vote.

(17) Kalla Chellarao

Schedule I

14

Ex. A29(d)

P.W. 67 deposed that Kalla Chellarao is his maternal uncle, that he was a member of the Panchayat Board, Relangi, that his house adjoins his own house and that he died a year prior to the general elections. The voter's father's name is Appalaswamy. He further deposed that though Chellarao died in 1951 there was no bye election to the Panchayat Board of which the voter was a member till 1956. P.W. 37 deposed that he knew Chellarao as his father was the tenant for the temple lands of which he is an *archaka*. He deposed that Chellarao died about 6 months prior to the election. Ex. A123(a) an entry in the death register shows that Kalla Chellarao son of Appalaswamy died on 7th September 1954 at the age of 30. The oral evidence coupled with this documentary evidence conclusively proves that this voter died prior to the date of the election. There is no evidence *contra* for the respondent. We hold that this is not validly cast vote.

(18) Chandaram Narasamma

Schedule I

21

Ex. A28(d)

P.W. 67 deposed that Chandaram Narasamma is the wife of Appanna, that she died about 5 years ago leaving behind a daughter, that Appanna married a second wife who is also called Narasamma and that the second wife's age is now 25 years that the 1st wife Narasamma died at the age of 30 years. He deposed that he personally saw the corpse of Narasamma and witnessed her husband performing the obsequies. A123(c) an entry in the death register shows that Chandaram Narasamma wife of Appanna died on 7th January 1954 at the age of 30. But the electoral roll entry Ex. A28(d) gives the age of the voter as 41. The respondent's advocate argued that there is a discrepancy between the age as given in the electoral roll and in the death register and that the name of the 2nd wife of Appanna is also Narasamma and that the entry in the electoral roll may refer to the vote of his 2nd wife. This cannot be correct because his 1st wife died on 7th January 1954 which would be after the preparation of the electoral rolls. Hence this vote cannot be said to be the vote of the 2nd wife. The age in the electoral roll also does not tally with the age of the 2nd wife. It is true that there is some discrepancy between the age in the death register and the age in the electoral roll but in view of the oral evidence in this case we hold that Ex. A123(c) relates to the voter in question. Hence we reject this vote as being invalid.

(19) Suriseti Gangamma

Schedule VI

68

Ex. A28(r)

P.W. 67 deposed that he knew Suriseti Gangamma, that she died about 3 years back leaving no issue, that her husband predeceased her, and that her elder son's wife Peddamma performed the obsequies as there were none else in the family. This Peddamma is alive and not examined. This voter is not in any way related to the witness. This witness did not attend the obsequies. He cannot name the year of the death. Ex. A124(c) an entry in the death register shows that Suriseti Gangamma died on 28th February 1955, i.e., after the elections, which was on 18th February 1955. Hence we hold that this is a validly cast vote.

(20) Chadaram Jaggamma

Schedule VI

69

Ex. A28(s)

P.W. 67 deposed that Chadaram Jaggamma wife of Adeyya died about 3 years ago and that her husband is alive. The year of death or month is not given. This witness is not in any way related to the voter. R.W. 48 is the husband of the voter. He deposed that his wife died 2 years ago about 10 or 12 days prior to Vinayaka Chavithi, that she was alive during the last elections in 1955 and that she cast her vote. He himself took her to the polling booth. We prefer the evidence of R.W. 48 to that of P.W. 67 and hold that this is a validly cast vote.

(21) Kaniseti Laxmidevi

Schedule III

14

Ex. A28(f)

This voter was originally shown in schedule III, i.e., list of absentee voters, and was not sought to be deleted by the subsequent amendment petition. But now in evidence, it is sought to be proved that this voter is dead. P.W. 67 deposed that he knew Kaniseti Laxmidevi wife of Nukanna, that she died about 6 years ago leaving behind her a daughter, that Nukanna married a 2nd wife called Musalamma of Anakapalle and

that Musalamma has a daughter aged 5 years. He says that Nukanna is his wife's paternal uncle. R.W. 52 is the husband of the voter. He deposed that his 1st wife Laxmidevi died a year after the birth of a daughter to him who is now 12 or 14 years old. He married again in the third or fourth month after the death of his 1st wife. The 2nd wife's name was originally Sanyasamma but, after marriage, she was renamed as Laxmidevi which was the name of his 1st wife. This marriage took place about 11 or 13 years ago. This Laxmidevi bore him three children of whom two are now alive. The child that died lived up to the age of 10 years. He further says that his 2nd wife was not called Musalamma at any time. If the second marriage had taken place 11 or 13 years back, there can be no doubt that the voter in question in the electoral roll would refer to the 2nd wife not to the 1st wife. We accept the testimony of R.W. 52 in preference to that of P.W. 67 and hold that this is a validly cast vote.

(22) Marisetti Nallaswami

Schedule VI

108

Ex. A42(c)

P.W. 13 deposed that he knew Marisetti Nallaswami, that he is a distant relation of his through his mother, that he died 6 years ago and that he attended his funeral. He does not remember the year in which he died. Nallaswami was aged 70 or 80 years at the time of his death. R.W. 36 deposed that the voter Marisetti Nallaswami is his paternal aunt's husband, that Nallaswami owns a house at Relangi, that the paternal aunt conveyed that house to him about 10 years ago and that ever since Nallaswami and his wife were living in that house along with him and were being maintained by him. Nallaswami was alive on the date of the election and cast his vote. He died about two months after the election, i.e., after the Telugu New Year's Day. He denies that P.W. 13 is in any way related to them. We prefer to follow the evidence of R.W. 36 to that of P.W. 13. P.W. 58 who is the father of P.W. 13 was examined to speak about the deaths of some other cases and he does not speak anything about the death of this voter. We hold that this is a validly cast vote.

(23) Thirumala Kantamma

Schedule VI

217

Ex. A49(c)

P.W. 13 deposed that Thirumala Kantamma, the voter, is the wife of Venkanna who was living about 10 houses off from the house of this witness. He says that the voter was his classmate in an Elementary School, and that she died four years ago of child birth when she was 20 years old. Venkanna married again a 2nd wife within 15 days after the death of his 1st wife. The 2nd wife is the daughter of Mulagala Anjaneyulu. This witness studied up to III standard in a school for 2 or 3 days. On the date of death, he was not in the village. He was at Padamata Vippairu which is 14 miles away from Relangi and he knew of the death of this voter after he returned, about 2 days later. Venkanna the husband is alive and many other close relations of Kantamma are also alive but have not been examined in the case. Ex. A168(a) an entry in the death register has been filed to prove the death of this voter. It shows that one Thirumala Kantamma whose father is Anjaneyulu and mother is Laxmamma died on 27th July 1951 at the age of 18. Nobody has been examined to connect this entry with the voter in question. There is no evidence as to the names of the parents of this voter. The entry does not contain the name of the husband. Unless the identity of the voter with the person in Ex. A168(a) is established, it is difficult to connect the voter with the person mentioned in the entry. As we stated above, no blood relation has been examined and we therefore cannot place much reliance on Ex. A168(a) as being connected with this voter. We therefore hold that this is a validly cast vote.

(24) Doddi Venkamma

Schedule I

63

Ex. A23(e)

P.W. 13 deposed that Doddi Venkamma wife of Seshayya died about 5 years ago, that Seshayya was doing cooly work in his field, and that therefore he knew of her death. He does not remember the year in which this Doddi Venkamma died. Venkamma's husband Seshayya is alive. Suryarao and another brother of Seshayya are also alive. They have not been examined in this case. It is hard to believe the evidence of this witness in the absence of any other evidence of the blood relations of the voter. We therefore hold that this is also a validly cast vote. It may be remembered that this P.W. 13 speaks of these cases, Nos. 22, 23 and 24. He is very much interested in the petitioner as he belonged to the Communist party and was an active worker for the petitioner during the election.

(25) Marisetti Rattamma

Schedule I

64

Ex. A23(f)

P.W. 58 deposed that Marisetti Rattamma wife of Seshayya died 5 years back of child birth at the age of 19, that her father's name is Srigincedi Bulli Venkanna, that this voter died in her parents' house at Relangi, that Seshayya married a second wife 3 or 4 months after the death of Rattamma and that she also is called Rattamma, and her age would be 19 years. Ex. A121(b) is the entry in the death register showing that Marisetti

Rattamma, daughter of Sirigineedi Bulli Venkanna died on 5th March, 1952 at the age of 18. It is contended by the respondent's advocate that this entry relates to the 1st wife and not to that of the 2nd wife and that the entry in the electoral roll refers to the 2nd wife and that she might have voted at the elections. Since the name of the second wife is the same as that of the 1st wife and since the 1st wife died in the year 1952, it is not improbable that the 2nd wife's name would have been entered in the electoral roll for the year 1954. So, it cannot be conclusively said that the voter in the electoral roll is the same as the person mentioned in Ex. A121(b). In that view, not much significance can be given to the entry in the death register. There is no evidence to show that the entry in the electoral roll does not relate to the second wife of Seshayya. We therefore hold that this is a validly cast vote.

(26) Yelamanda Anjaneyulu Schedule VI 188 Ex. A22(k)

It is noted in the electoral roll that this voter Yelamanda Anjaneyulu is the son of Veeraswami and is aged 56 years. P.W. 58 deposed that Yelabanda Anjaneyulu is really the son of Kondayya and not that of Veeraswami, that there is no person by name Yelubanda Veeraswami in the village, that this Anjaneyulu son of Kondayya died about 7 years back as he suddenly got ill while working in the field. Himself and this voter are owners of neighbouring fields and this voter is said to have died the very next day. This Anjaneyulu's wife Bullemma is alive. She is 50 years old. Anjaneyulu has got 4 sons who are all alive. None of them has been examined in this case. Ex. A167(a) is relied upon to prove the death of this voter. It is an entry in the death register showing that one Yelubanda Anjaneyulu died on 27th June, 1950 at the age of 55. The father's name has not been noted in that entry. The age is put at 55 while P.W. 58 deposed that he died at the age of 70. While the electoral roll mentions the father's name as Viraswami, P.W. 58 gives his name as Kondayya and Ex. A167(a) does not make any mention at all of the father's name. The blood relations of Anjaneyulu who are expected to know the real paternity of this voter and his actual date of death, have not been examined. In view of these conflicting entries and the unreliable evidence, we hold that there is no satisfactory proof of the date of death of this voter. Hence we accept this vote as a validly cast vote.

(27) Voolla Pentayya Schedule V 256 Ex. A37(u)

P.W. 1 deposed that this voter Voolla Pentayya died about 5 or 6 years back but in cross-examination he admitted that he is not personally aware of his death and that one of the caste men of the voter has told him about it. None of those caste men has been examined in this case. His evidence is purely hearsay. R.W. 8 is a gnathi of this voter. The voter was residing in his house at Attili. He left the house only a year back. On the polling day he was at Attili and cast his vote. We accept the evidence of this witness. The evidence on the petitioner's side is purely hearsay. We therefore hold that this is a validly cast vote.

(28) Chundru Seethamma Schedule III 84 Ex. A60(f)

P.W. 89 deposed that Chundru Seethamma wife of Venkanna died about 5 or 6 years prior to election at Gudicherla which is about 18 miles from Attili. In cross-examination, he admitted that he is not personally aware of the death of Seethamma and that when he was distributing chits on behalf of the petitioner he was told that Sithamma was dead. His evidence is purely hearsay. No other witnesses have been examined on behalf of the petitioner to prove about the death or the date of death of this voter. Hence we hold that this is a validly cast vote. This voter was originally given in schedule III which deals with absentee votes but evidence has been let in that the voter is dead.

(29) Komari Pallamma Schedule I r

P.W. 55 deposed that Komaru Pallamma died about 8 years when she was 80 years old, that he does not know her husband's name, that he is a friend of this Pallamma's son's son Sriramulu who is now living at Madras. Pallamma has a daughter Mahalaxmi and she is living in the house of Pallamma at Relangi. This witness worked for the petitioner in the elections and he is one of the accused in the affray case filed by the police in connection with the clash of both the parties at Relangi during elections. Neither the son Sriramulu nor the daughter Mahalaxmi has been examined in this case as to the date of death of this woman. In view of the interestedness of this witness we cannot place much reliance on his evidence. There is no other evidence in this case. We therefore hold that this is a validly cast vote.

(30) Surampudi Viyyamma Schedule I 92 Ex. A24(a)

P.W. 4 deposed that this voter Surampudi Viyyamma is the wife of Ramakrishnaiah and the mother of Surampudi Seshachalam and that she died 5 or 6 years in her 80th year. He says that her son Seshachalam was his doctor and as such he knew of her death. He worked for the Communist party in the elections. R. W. 1 is Surampudi Seshachalam son of the voter. He deposed that his mother died two years back and that his son Ramakrishna reported

the death to the Panchayat Board as per Ex. B3 (a) and that she was alive on 18th February 1955 and voted at the general election. He denied all knowledge of P. W. 4 and said that he is not his family doctor. Ex. B3(a) shows that Surampudi Viyyamma, wife of Ramakrishnaiah, died on 28th October 1955, which is after the elections. There is, therefore, no doubt that this woman was alive at the time of the elections and that she cast her vote. We, therefore, hold that this is a validly cast vote.

(31) Ankireddi Ammanna

Schedule I

98

Ex. A25(a)

P.W. 4 deposed that Ankireddi Ammanna, wife of Subbanna died 4 years ago at the age of 30, that his house adjoins her house and that Subbanna is alive. He claims to know the time of the death of the voter on account of his friendship he has with Subbanna. In cross-examination, he stated that Subbanna married a second wife by name Tulisamma. The 2nd wife has been examined as R.W. 25. She deposed that Subbanna's first wife Ammanna died and that in the same year in which she died, Subbanna married her, that this marriage was about 9 years ago and that ever since she was at Attili in her husband's house, that at the time of the preparation of the electoral roll she was in her husband's house only and that she has cast her vote on the election day. She denied that the 1st wife of her husband died only 4 years ago and that her husband had no wife by name Tulisamma. She further said that her name was originally Savitri while she was at her parents' house and that after her marriage she was called Ammanna after the name of the 1st wife of her husband. We see no reason to disbelieve the evidence of R.W. 25 and we therefore hold that this is a validly cast vote.

The next category of cases is that of absentee voters. Evidence has been adduced about 84 cases under this head. The plea of the petitioner in all these cases is similar to that of the plea of alibi in criminal cases. It is very easy to plead an alibi but very difficult to prove it. There must be positive evidence on the part of the petitioner to show that it is impossible for the voter to have come to the polling booth on the day of the elections from the place where he is alleged to have been residing and cast his vote. It may be observed in this case that all the witnesses produced by the petitioner are those who are residents of the villages in which the polling stations are situate and who say that the voter has not come and voted on the election day. No witness from the place wherein the voter was alleged to have been residing on the date of the election, was examined to show that that voter was actually in that village on that day and that it was impossible for the voter to have come to the polling station and exercised his franchise. We will now examine the cases in detail.

(1) Pathan Masthan

Schedule I

10

Ex. A29(a)

P.W. 5 deposed that this voter Pathan Masthan was his class mate, that his house is about a furlong away from his house, and that he left the village 10 years ago and that his whereabouts are not known. R.W. 63 is a relation of the voter. He deposed that his father's 1st wife had three brothers of whom Silar Sahib is one. Pathan Masthan is the son of Silar Sahib. He owns a house in Relangi. He left Relangi about 4 years back and is now living at Srungavarapukota near Vizianagaram. He came to Relangi a week prior to the election and stayed in his house. On the election day he was at Relangi and cast his vote. He further says that Pathan Masthan rented out his house to one Dr. Gajula Suryanarayana. He denies that this house had fallen into ruins. We prefer to accept the evidence of R.W. 63 to that of P.W. 5. We therefore hold that this is a validly cast vote.

(2) Pasupuleti Anjaneyulu

Schedule I

17

Ex. A32(b)

P.W. 7 deposed that this voter Pasupuleti Anjaneyulu was absconding from their village from the last 7 years due to mental derangement and that he did not come to Relangi on the election day and cast his vote. He has an elder brother by name Subbarao who is a clerk in the Relangi Panchayat Board Office. This brother Subbarao has been examined by the respondent as R.W. 50. He deposed that the voter is his younger brother, that he was separated from him about 15 years back and that he was in the village on the previous day of the elections. This witness R.W. 50, went to Ilindarapurru on the election day as he was appointed as the polling officer at that village. He returned on the next day and found his brother Anjaneyulu in the village. He deposed that his brother is a religious minded man and would be going about to shrines and temples and that he is not mentally deranged and has never absconded from the village. He further deposed that in January 1956 he went out to visit temples for the first time and that he returned again in August 1956. This witness is the Head Clerk of the Panchayat Board Office at Relangi. We see no reason to disbelieve the evidence of R.W. 50. If his evidence is accepted, we have to reject the evidence of P.W. 7 who says that this voter has been absconding from the last 7 years. We therefore hold that this is a validly cast vote.

(3) Pasupuleti Subbarao	Schedule III	6	Ex. A32(d)
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P.W. 7 deposed that Pasupuleti Subbarao, the voter, was residing at Bhimavaram since the last 7 years and that on the election day he did not come and vote at Relangi. Bhimavaram is 15 miles from Relangi and is connected by train and bus routes. This witness does not personally watch and see which voter voted and which did not. The evidence of this witness carries us nowhere. On the respondent's side there is the positive evidence of R.W. 69 who is a close relation of the voter. The voter is his paternal uncle's son. He deposed that on the polling day, he came from Bhimavaram and voted and that he personally knew of it. We, therefore, accept the evidence of R.W. 69 and hold that this is a validly cast vote.

(4) Pasupuleti Gogulu	Schedule III	8	Ex. A32 (e)
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6 years and that he was not at Relangi on the date of the election. Urakaramilli is about 6 years and that he was not at Relangi on the date of the election. Urakaramilli is about 20 miles from Relangi. He does not personally know who voted and who did not on the election day. R.W. 71 is the voter himself. He deposed that he was residing at Urakaramilli only from the last one year and that till then he was at Relangi alone and that he cast his vote on the election day. Urakaramilli is after all 20 miles from Relangi and is connected by bus route to Relangi. Even according to P.W. 7's evidence, it is not impossible for the voter to come and vote on the election day. We, therefore, hold that this is a validly cast vote.

(5) Kandregula Ademma	Schedule I	22	Ex. A28(e)
(6) Viswanathuni Rosamma	Schedule I	28	Ex. A44(h)
(7) Doddi Jogi Naidu	Schedule III	5	Ex. A29(k)
(8) Doddi Gangamma	Schedule III	16	Ex. A28(f)
(9) Maddula Nagaratnamma	Schedule III	26	Ex. A44(g)
(10) Tummalapallui Annapurnamma	Schedule III	27	Ex. A44(h)
(11) Tummalapalli Satyavathi	Schedule III	33	Ex. A44(n)

P.W. 37 speaks about all these voters. He is an *archaka* in three temples at Relangi. He worked for the petitioner in the elections throughout. He was working for the Communist party from 1946. He was also the polling agent for the petitioner in ward No. 2. Of the above voters, Nos. 5, 7 and 8 are *gavaras* while the rest are *vysyav*. Nos 7 and 8 are husband and wife. P.W. 37 deposed that these three *gavara* voters were at Gavara Anakapalle in Vizag district from 4 years prior to election and prior to that they were living at Relangi in ward No. 1. He further deposes that in 1953 one Chellarao contested for the 1st ward of the Panchayat Board, that he worked for Chellarao then and that in that connection he knew that the above three persons had left Relangi for Gavara Anakapalle. It is from his knowledge of 1953 that P.W. 37 is now presuming that they were absent on the election day. R.W. 85 deposed that the voter Kandregula Ademma was residing in his house during the elections in 1955, that she did cast her vote on the election day and that she later migrated to Anakapalle. R.W. 51 deposed that Doddi Joginaidu and his wife Gangayamma were at Relangi on the election day, that both of them cast their votes then, and that they went to Anakapalle a year after the election. They were staying in his house during their stay at Relangi and doing agricultural work. In view of this evidence, we hold that the above three voters are validly cast votes.

P.W. 37 deposed that Viswanathuni Rosamma, wife of Balayya was living in her younger brother's house at Relangi and that on the election day she was seen in the hospital of Dr. Krishnamachari of Tanuku as an in-patient. She was bed-ridden on account of dropsy and was at Tanuku from two months prior to election and returned to the village only one month after the election, and that she died five days later. The in-patient registers of Dr. Krishnamachari were not summoned to show the dates on which she was staying as an in-patient in that hospital. The brother of this voter has been examined as R.W. 10. He deposed that this voter died a week after the general elections, that she was about 50 years old at the time of her death, that she was at Relangi on the election day, that she and his own wife went to the polling booth and cast their votes. This voter was residing in his house ever since she became a widow. He admits that she was suffering from dropsy and was treated by Dr. Krishnamachari of Tanuku for one month, that she came back to Relangi after she was cured of it and that she was all right on the polling day and was moving about and that later, she died of heart failure. Ex A124(b) is the entry in the death register showing that this voter died on 25th February 1955, i.e., a week after the election. In view of the evidence of R.W. 10 and Ex A124(b) we hold that this is a validly cast vote.

The same witness, P.W. 37 (the *archaka*) deposed that Maddula Nagaratnamma, the voter, was living at Pippara from 4 or 5 months prior to the election with her second son and that she did not come to Relangi on the day of election. Pippara is 7 miles from Relangi.

R.W. 23 is the son of the voter. He deposed that the voter was with him at Relangi on the polling day and that he took his mother to the polling station for voting. She died a year ago. Pippara is after all 7 miles from Relangi and in any view of the case, it is not impossible for the voter to come and vote on the election day. It is not possible for P.W. 37 to watch and see who all had voted at the several booths in Relangi. P.W. 37 deposed that Thummalapalli Annapurna wife of Parvathisam was at Palacole on the election day at her parents' house from two months prior to the date of the election and that Palacole is 25 miles from Relangi. He does not definitely say that she did not come to Relangi on the election day. Palacole is connected with Relangi by train. P.W. 61 is the husband of the voter. He deposed that on the election day his wife was at Relangi and has cast her vote. He denies that she was at Palacole on that day. There is railway and bus connection between Palacole and Relangi. We prefer to accept the evidence of R.W. 61 and hold that this is a validly cast vote.

P.W. 37 deposed that Thummalapalli Satyavathi, wife of Sriramulu was at Narasapur in her parents' house on the election day, having gone there three months prior to the election. He says he knew of this from her husband during the election campaign. He claims also some intimacy with the husband Sriramulu as he was supplying musk to him as the agent of Ranga Stores, Delhi. There is no positive evidence that this voter even if she had gone to Narasapur, had not come to Relangi on the election day. Narasapur is connected by rail and bus routes with Relangi. This witness, P.W. 37, seems to be an omnibus witness and claims to know the presence or absence of the vyaya voters in the village from their presence or absence at the temple during the evenings. This is not a convincing proof. We hold that this is a validly cast vote.

(12) Penumaka Rattamma	Schedule I	31	Ex. A31(b)
(13) Rayala Kanakamma	Schedule III	38	Ex. A31(f)
(14) Pasupuleti Sithamma	Schedule III	37	Ex. A31(e)
(15) Rayala Nagarathnam	Schedule III	39	Ex. A31(g)
(16) Rayala Satyavathi	Schedule III	40	Ex. A31(h)

P.W. 32 speaks about all these voters. Of these, S. Nos. 12, 13, 15 and 16 belonging to the Rayala family and are closely related to each other. The other voter belongs to the Pasupuleti family. P.W. 32 deposed that the voter Rayala Ganakamma has three sons, Rayala Peda Apparao, Rayala China Apparao and Rayala Ramaswami. Nagarathnamma the voter is the wife of China Apparao while Satyavathi is the wife of Ramaswami. Penumaka Rattamma is Rayala Kanakamma's husband's sister. P.W. 32 deposes that all these four persons were staying at Gudivada on the election day and did not come to Relangi. R.W. 37 is Penumaka Rattamma herself. She deposed that Ramaswami and China Apparao were living at Gudivada carrying on business and would be coming to Relangi now and then, and that on the election day she and the wives of Ramaswami and China Apparao and the wife of her brother Venkanna were at Relangi and that they cast their votes. Her brother Venkanna has a house at Relangi in which she is living. Gudivada is connected with Relangi by train and by bus. There is nothing improbable in these voters coming from Gudivada to Relangi and taking part in the elections. We prefer to accept the evidence of R.W. 37 and hold that these four votes are validly cast votes.

As regards the vote of Pasupuleti Sithamma P.W. 32 deposes that she was not at Relangi on the eve of the elections and that she was at Gudivada. He admits that her husband has a house at Relangi but says that it was lying vacant. It is not denied that this voter and her husband were residents of Relangi. There is nothing improbable in their coming to Relangi on the election day and exercising their franchise even if they were living at Gudivada. We, therefore, hold that this vote also is a validly cast vote.

(17) Kuppala Musalayya	Schedule I	48	Ex. A22(a)
(18) Kuppala Nagamani	Schedule VI	205	Ex. A23(5)
(19) Pasupuleti Satyanarayana	Schedule I	49	(Ex. A22) b)
(20) Mariseti Perayya	Schedule I	51	Ex. A22 (c)

Serial Nos. 17 and 18 are husband and wife. P.W. 3 deposed that they were residing at Pydiparru which is about 8 miles from Relangi from the last 5 years and that they did not come to Relangi on the polling day and vote. Musalayya is the mother's elder sister's son-in-law of this witness. This witness is a worker for the Communist party and was collecting voters on the election day, to be sent to the booths, for the petitioner. He admits he was not at any polling station from beginning to the end throughout the day. Both these names were

originally given in the list of dead voters in the schedule attached to the petition. But the evidence now let in is that they are absentee voters. R.Ws. 41 and 42 are these two voters themselves. They deposed that on the election day they went from Pydiparru to Relangi and cast their votes. Pydiparru is about 3 miles from Relangi. According to these witnesses they left Pydiparru in the afternoon, cast their votes and returned back to Pydiparru on the same day. In view of the short distance between Pydiparru and Relangi, there is nothing improbable for these voters to come and exercise their votes. There is no positive evidence to show that they stayed at Pydiparru alone throughout the election day. We therefore hold that these two are validly cast votes.

P.W. 3 deposed that Pasupuleti Satyanarayana was not in the village on the date of polling and that he had gone to his mother-in-law's house. In cross-examination, he admitted that the mother of the voter told him that he was not in the village. He asked her at 6 a.m. on the polling day and did not go to her house again. The evidence of this witness is purely hearsay. The mother is not examined in this case. R.W. 60 is the voter himself. He deposed that he was at Relangi on the election day and cast his vote. There is no reason to disbelieve his evidence. We hold that this is a validly cast vote.

P.W. 5 deposed that Mariseti Perayya, the voter, was residing at Pydiparru since about 6 years in his father-in-law's house and that he did not come to Relangi on the date of polling and that he found his house locked when he went to his house on the election day. R.W. 84 is the voter himself. He deposed that Pydiparru is about 2 miles from Relangi, that he settled down at Pydiparru since 4 years and that on the election day he went to Relangi by about 8 or 9 a.m., cast his vote and returned to Pydiparru in the evening. In view of the short distance between the two villages, there is nothing improbable in this voter coming from Pydiparru and casting his vote. We hold that this is a validly cast vote.

(21) Nakka Gogulamma

Schedule I

77

Ex. A53(a)

This voter, Nakka Gogulamma, was examined as P.W. 50. She deposed that she was living with her husband at Badampudi during the elections in 1955 and that she did not exercise her franchise. She admits that in the 1957 Parliamentary elections she gave her vote at Attili. Her parents live at Attili and she would be coming once every month. She further admits that she and her husband have been living at Attili from the last one year doing cooly work. She says that one month after the election, P.W. 10 asked her at Attili whether she exercised her vote and that she said that she did not. In the very next breath, she says that from two months prior to P.W. 10 asking her about this, she was at Attili with her parents. If this is true, she must have been at Attili on the election day. R.W. 4 is the younger sister of this voter. She deposed that this voter, P.W. 50, originally married a person of Palacole, divorced him later and remarried another person Nakka Narasanna of Badampudi. She deserted that husband also about 5 or 6 years ago and was ever since living in her parents' house at Attili. She deposed that she and P.W. 50 went to the polling booth together on the election day and exercised their franchise. Ex A53(d) is the vote of this witness, in the electoral roll. It is consecutive in number to Ex.A53(a) which is the vote of P.W. 50. This lends colour to the evidence of R.W. 4 that she and P.W. 50 came together to the polling booth and exercised their franchise. We, therefore, hold that this is a validly cast vote.

(22) Vajrapu Appalamma

Schedule I

78

Ex. A54(a)

(23) Elusu Asireyya

Schedule III

60

Ex. A51(b)

(24) Kaliseti Akkamma

Schedule III

73

Ex. A54(d)

P.W. 14 speaks about all the above three voters. This witness is a Communist worker and worked for the petitioner, during the elections. He deposed that Vajrapu Appalamma, the voter, and her husband Sanyasi left their village 2 years prior to the election and did not return thereafter. In cross-examination, he states that this Appalamma went to Vizianagaram and that he does not know whether Vizianagaram is in the East Godavari District. R.W. 89 deposed that this voter and her son were living in a portion of his own cattle-shed at Attili, that they were doing cooly work for him and that on the election day this voter cast her vote. They migrated to the Eastern country about 1½ years after the election. We prefer to accept the evidence of R.W. 89 to that of P.W. 14. We hold that this is a validly cast vote.

P.W. 14 deposed that Elusu Asireyya, the voter, left the village about 2 years prior to the election and that he did not see him thereafter and that he was not on the election day in the village. R.W. 18 is the voter himself. He says that his house name is Balusu and not Elusu, that his father's name is Balusu Venkataswami, and his grandfather's name is Balusu Swami. He deposed that he was at Attili on the polling day and cast his vote. R.W. 30 is the father of R.W. 18 and R.W. 29 is the father of R.W. 30. Both of them deposed that their family name is Balusu and not Elusu and that they had all votes and that they exercised them on the election day. A perusal of the voters' list shows that excepting the name of

RW 18, the house names of others were noted as Balusu. Evidently Elusu is a misprint for Balusu. In view of the evidence of RW 18, 29 and 30 we hold that this is a validly cast vote.

PW. 14 deposed that Kalisetti Akkamma, the voter, was not in the village on the date of the election and that she went to her native village in Srikakulam district about 3 years prior to the election. He admits that her husband is alive and that he does not know whether he was in the village on the election day and voted. RW 17 is the husband of this voter. He deposed that he and his wife were at Attili on the polling day and that both of them had cast their votes. Ex A51(d) relates to the vote of this witness. It shows that the vote has been exercised. He further said that himself and his wife would now and then be going to their village in the Srikakulam district as they have some property in that village. We prefer to accept the evidence of RW 17 to that of P W 14. We hold that this is a validly cast vote.

(25) Kondru China Narasamma Schedule I 89 Ex A55(a)

P.W. 87 deposed that Kondru China Narasamma the voter went to her parents' house at Badampudi about 15 days prior to elections and returned to the village about 12 days after the election. Her husband's name is Ramanna. RW 5 is the voter herself. She deposed that she is the wife of Ramanna, that she and her husband were living at Attili, that she has nothing to do with Badampudi and that she never went there. She deposed that she was at Attili on the election day and exercised her franchise. P W 87 deposed that he does not know in what part of the year general elections took place in 1955 and that on the date of the election he went to his fields to transplant the first crop. This must obviously be false because 18th February 1955 is not the season for the 1st crop but only for the 2nd crop, if any. No value can be attached to the evidence of P W. 87. We hold that this is a validly cast vote.

(26) Abbiseti Gangamma	Schedule I	121	Ex A21(a)
(27) Gullanki Jagannadham	Schedule III	103	Fx. A35(a)
(28) Polavarapu Subbayya	Schedule III	105	Ex. A35(b)
(29) Kankachoria, Peda Kotayya	Schedule III	107	Ex. A35(c)
(30) Devabanki Yesudoss	Schedule III	108	Ex. A35(d)
(31) Bhadrachalam Venkayamma	Schedule III	118	Ex. A36(a)

PW 1 is the only witness who speaks about all these voters. As we have stated above, he is an omnibus witness speaking of several alleged corrupt practices in this case. He is the principal organiser of the Communist party in this election. He stated that prior to the election he had gone along with a batch of other workers from door to door in the village, ascertained who were dead and who were absent and distributed chits to the voters who were present. He has also noted the names of persons who were all absent in the village. He deposed that the voter Abbiseti Gangamma was not in the house when he went there about 2 days prior to the polling day and that her son Abbiseti Pallayya told him that she had left the village about 10 days previously for her relatives' house and that she would be returning in about 10 days. This is purely hearsay evidence. Abbiseti Pallayya has not been examined. RW. 16 is one of the sons of Gangamma, the voter. He deposed that his mother is about 90 years old, that he took her to the polling booth on the election day to cast her vote and that it is not true that she had gone to any other village on that day. This witness also cast his vote, Ex B6 (a). There is no reason to disbelieve the evidence of this witness. This vote is therefore held to be a valid vote.

PW 1 deposed that Gullanki Jagannadham, the voter, left Attili about 3 years back and is living at Konala near Duvva. Konala is about 9 miles from Attili. He is not able to say in which booth this voter had to exercise his vote. RW 19 is the voter himself. He deposed that he owns a house at Attili, that he was at Attili on the election day and cast his vote. He denies that he went to Konala on that day. He admits that his daughter Veeramma is at Konala which is her husband's village and that he is now living with her from the last one year. He further deposed that he would be staying both at Konala and Attili also and that he came to Attili a week prior to the elections. His sons reside at Attili only and that there are no illfeelings between him and his sons. We prefer to accept the evidence of this witness to that of P W 1 and we hold that this is a validly cast vote.

PW 1 further deposed that the voter Polavarapu Subbayya is a school teacher at Ramannagudem which is about 20 miles from Attili and that he was living there from the last 2 years. RW 57 is the younger brother of Polavarapu Subbayya. He deposed that his brother is a school teacher at Ramannagudem, 20 miles from Attili, that he came to his village on the polling day, stayed with him and cast his vote. There is no reason to disbelieve the evidence of RW 57. We hold that this is a validly cast vote.

P.W. 1 further deposed that Kankacherla Peda Kotayya the voter was residing at Palacole from the last 2 years. R.W. 22 is the voter himself. He owns a house at Attili and has got five children. He deposed that he was at Attili on the polling day and cast his vote. He went to Palacole only about 3 months back for purposes of his trade. There is no reason to disbelieve the evidence of this witness. We hold that this is a validly cast vote.

P.W. 1 deposed that the voter D. Yesudoss left the village about 3 years back and that he did not know where he was residing after he left Attili. R.W. 11 is the voter himself. He deposed that he has been living at Attili since 7 or 8 years, that his wife is a midwife in the Government hospital at Attili, that he is a car driver by profession and that he is now unemployed. He said that he cast his vote at Attili on the polling day in the polling booth at the Board Girls' School. He said that his wife also might have voted. Ex. A36(c) relates to her vote. It is suggested in the course of his cross-examination that he was at Skinupuram about 4 miles from Attili. He denies it. Even if he were at Skinupuram, it is not improbable that he would have come to Attili and exercised his vote. We hold that this is a validly cast vote.

P.W. 1 deposed that the voter Bhadrachalam Venkayamma was at Undi with her parents from the last two years as she quarrelled with her husband and went away to that place. Her husband is living at Attili only. In cross-examination, he admits that he was only told about this by her husband on the day prior to the polling day. This is purely hearsay evidence. The husband has not been examined. P.W. 69 was also examined to prove that this voters was at Undi on the election day. Undi is about 10 miles from Attili and is connected by a bus route. This witness admits that he did not stay at the polling booth and that he cast his vote and went away. He is not also a worker for the petitioner to know who all had come and voted and who did not. Even if this woman had deserted her husband and went away to Undi, it is not impossible for her to come to Attili and exercise her franchise. There is no positive proof that she did not vote on the election day. We therefore hold that this is a validly cast vote.

(32) Sarvepalli Venkatarayalu Setti	Schedule III.	63	Ex. A 33 (a)
(33) do. Narayanamurthi	Schedule III.	64	Ex. A33 (b)
(34) do. Subbaramayya.	Schedule III.	65	Ex. A33 (c)
(35) Alwaru Chenchayya	Schedule III.	66	Ex. A33 (d)
(36) Dama Raghaviah.	Schedule III.	67	Ex. A33 (e)
(37) Gunakala Seshayya.	Schedule III.	68	Ex. A33 (f)
(38) Sarvepalli Polamma.	Schedule III.	74	Ex. A34 (a)
(39) Mutyamgari Polamma	Schedule III.	76	Ex. A34 (c)
(40) Dama Eswaramma	Schedule III.	75	Ex. A34 (b)

P.W. 1 deposed that all the above voters were residents of Attili, that they are traders in glass bangles, that they came to Attili about 3 years back, stayed at Attili for one year and later left the village and that they did not come to Attili on the polling day. P.W. 20 corroborates P.W. 1 and further says that he knew of these people because he was stitching cloths to them as a tailor. Both these witness are deeply interested in the petitioner as they worked for him in the elections. P.W. 20 deposed that he went to the villages in which these voters were residing and took the affidavits from them to show that they were not at Attili on the election day and that they did not vote and that he had these affidavits to P.W. 1. None of the voters has been examined in the case by the petitioner. If he was really armed with the affidavits of these voters he would certainly have confronted the voters if they denied what they had stated in the affidavits. P.W. 20 further states that even after they had left Attili, these voters were having correspondence with him and that he received 10 or 15 letters from them. They have not been filed in the case. He says he has not preserved those letters. R.W. 79 deposed that these voters were residing in his house on the polling day and that they had all cast their votes. They are all bangle merchants living in his house on rent. They left the village about two months after the election and went to their native place near Peda Thirupathi. He says that they would be coming to these parts now and then in connection with their bangle trade. It is not denied by P.W. 20 that these voters were residing in the house of this witness. R.W. 88 is the husband of Mutyamgari Polamma, the voter. Dama Eswaramma is his sister's daughter. Eswaramma's husband is Raghaviah. Gunakala Seshayya is his caseman. He deposed that all these persons resided in the house of P.W. 79. Venkatarayulu Setti, his wife Polamma, his sons Subbayya and Narayanamurthy resided in Musalayya's house. This witness was also residing in the same house. All these persons had

cast their votes on the polling day. It was only 3 months after the polling that they had left for their native village. This witness also followed them but returned later to Attuli. This witness also is a bangle seller. We prefer to accept the evidence of RWs 79 and 88 to that of PWs 1 and 20. We hold that all these votes are validly cast votes.

(41) Pedapudi Venkatartnam Schedule II 5 Ex A70 (c)

This voter was shown in schedule II annexed to the petition as one of the fictitious voters. Evidence now let in is that he is an absentee voter. PW 52 deposed that Pedapudi Venkatartnam belonged to Vissakoderu of Bhimavaram taluk which is 7 miles from Mamudur polling station. He was staying at Mamudur about 5 years back for one year doing cooly work and that he later left the village. He knew him because the voter was doing cooly work in his fields. He deposed that he was not at Mamudur on the election day. He is the polling agent for the petitioner at Mamudur. He admits that there were two other agents for the petitioner at the station, each of them were working at the booth one hour at a time alternately. He is a member of the Communist party. He noted the names of all absentee voters about 4 days prior to the election of whom this voter is one. If so, he ought to have stated this to the other polling agents also and if anybody voted on behalf of this voter, it would have been challenged immediately. No such thing has been done. RW 51 is the voter himself. He deposed that in 1955 election time he was at Mamudur and that he cast his vote. He denied that he ever worked as a cooly under PW 52. He was residing in the house of his sister's husband Vanapalli Nagayya. As we stated above, Vissakoderu is after all 7 miles from Mamudur. There is nothing improbable that the voter would have come to Mamudur from Vissakoderu even if it were to be held that he was then residing at Vissakoderu. We hold that this is a validly cast vote.

(42) Chukatla Suryarao Schedule III. 3 Ex A29 (h)

(43) Sandhu Mary Sophia Schedule III 12 Ex A28 (g).
Sarojini

(44) Daki Subbamma Schedule III 13 Ex A 28 (h)

PW 9 speaks about all these three voters. He is a worker for the petitioner and canvassed for votes on the election day. He deposed that the voter Chukatla Suryarao who is his brother-in-law by courtesy was residing at Mallipudi since about 5 years, that Mallipudi is about 4 miles from Relangi and that he did not come to Relangi on the polling day. This voter was originally shown under schedule III as one of the absentee voters but later, by means of the amendment, he was sought to be deleted from that list and added on to schedule II which is a list of fictitious voters. But in evidence, PW 9 deposes that this voter is an absentee voter. No satisfactory explanation has been given as to why this name was sought to be deleted in the amendment petition. Further, Mallipudi is after all 7 miles from Relangi and it is not impossible or improbable for the voter to come and exercise his franchise. We hold that this is a validly cast vote.

PW 9 deposed that the voter Sophia Sarojini was not at Relangi since about 6 years, that she was serving as a school mistress at Kantheru but that her father Bhushanam was serving as a school master in Relangi. Kantheru is about 4 or 5 miles from Relangi. The voter's husband is a post peon at Penumantra which is also about 4 miles from Relangi. This voter has got a house at Bobbarapaleam hamlet of Relangi. He admits that he was not at the polling booth throughout the day and that he was going out and bringing voters. It is therefore not improbable for the voter to have come from Kantheru to Relangi and exercised her vote. This voter's name also was originally shown in the schedule of absentee voters sought to be included by virtue of the amendment petition in the list of fictitious voters but again evidence was let in as an absentee vote. We hold that there is no positive proof let in to show that this voter did not come to Relangi on the polling day and exercise her vote. We hold that this is a validly cast vote.

PW 9 deposed that the voter Daki Subbamma was at Kanchumarru on the polling day, that she settled down at that place for about 6 years, that her parents reside in that village and that she deserted her husband and was living there. In cross examination, he admits that he went to Kanchumarru a month after the elections and asked this voter why she did not come and vote and that she then told him that she was not informed by anybody about the polling. Till he contacted her he did not know that she had not voted. This is purely hearsay evidence. The voter has not been examined. We therefore hold that this is a validly cast vote.

(45) Alla Kamamma Schedule III 17 Ex A28 (m)

PW 67 deposed that the voter Alla Kamamma left the village Relangi about 10 years ago for Konthivada where her daughter is said to be living. She was 70 years old at the time when she left the village and she did not come to the village to vote on the election

day. She owns a house at Relangi. Konthivada is about 16 miles from Relangi and is connected by bus service. Kamamma is not in any way related to this witness. The witness says that if Kamamma had come to Relangi on the election day she would have seen him and that was why he was saying that she did not vote on the election day. We cannot accept this presumption of his. He did not work for the petitioner and is therefore not aware as to who voted and who did not. R W 56 is a neighbour to the house in which Kamamma was living. He belongs to the same community as that of the voter. He deposed that she was in the village on the election day and cast her vote and that she is 80 years old. We prefer to accept the evidence of R W 56 and hold that this is a validly cast vote.

(46) Appana Sitaratnam	Schedule III	28.	Ex A 44 (j)
(47) Chekka Manikyam.	Schedule III	29.	Ex A 44 (k)
(48) Pesala Sitaratnam.	Schedule III	32	Ex A44 (m).

All these three voters are vysyas. P D 17 speaks about them. He states that Appana Sitaratnam wife of Venkataramana belonged to Relangi village that her husband is a resident of Munjavarampukottu, a village in Razole taluk, East Godavari, and that she was living with her husband in her husband's place for the last 6 years. He says that she did not come to Relangi on the election day. In cross examination, he admits that her father and brothers are alive and are trading at Relangi, that he does not know the polling station of the 2nd ward where the vote in question was registered, that he did not work for the petitioner or for anyone in the elections and that he did not go to the polling booths at all on the election day. In view of this admission, it is not known how he could assert that this voter did not come and exercise her franchise. Hence we reject his evidence. The blood relations of the voter at Relangi have not been examined. We hold that this is a validly cast vote.

P W 17 deposed that the voter Chekka Manikyam, wife of Gangaraju used to live in the house adjacent to his and was living by carrying drinking water to others. She left the village about 4 years back having been mentally deranged and that her whereabouts are not known. In cross examination, he admits that she was living in Bangaru Subbarao's house, that she never carried water to his house, that there are 10 or 15 Chekka families in the village and that he does not know the names of any of those people and that he is not able to give the year or month in which she left the village. We cannot accept the uncorroborated testimony of this witness. Admittedly, he never went to the polling booths at all. Nor was he interested in the election. He could not have known who had come and voted. The near relations of this voter have not been examined. We hold that there is no positive proof that this voter had not exercised her franchise. Hence we accept this as a valid vote.

P W 17 deposed that Pesala Sitaratnam was living at Eluru for the last 10 years in her husband's house and that her parents' house is at Relangi which is about one furlong away from his house. He admits that her husband died but he cannot say when. After her husband's death, she came down to Relangi and was living with her brothers. He further says that this election took place during the first crop transplantation season which cannot to Relangi on the election day and that it is from that that he is saying that she did not vote. This is purely hearsay and has to be rejected. R W 38 is the nephew of the voter. He deposed that the voter's husband died long ago and that the voter was living in his house ever since the death of her husband and that she was in the village on the polling day and cast her vote. Owing to her old age this witness himself took her to the polling booth. In view of the evidence of R W 38, we hold that this is a validly cast vote.

(49) Kalidindi Rajeswari	Schedule III	45	Ex A45 (k).
(50) Penumetcha Satyanarayana- yanaraju	Schedule III	54	Ex A46 (c)

P W 30 speaks about these two voters. He deposed that Kalidindi Rajeswari was living in her husband's house at Kallispudi which is about 40 miles from Relangi since about 6 or 7 years, that her parents belong to Relangi and that on the election day she was at her husband's house. This witness is not in any way related to the voter. The voter's father and brothers are alive and they were not examined. He did not take part in the elections. But yet he states that if Rajeswari had come to Relangi he would have known of it. R W 40 deposed that the voter is the daughter-in-law of his mother's sister and that his house adjoins their house. He said that on the election day the voter was at Relangi alone having come to her parents' house for Sankranthi festival. She went back to her husband's house 15 days after the election. She and his younger brother's wife Satyavathamma went to the polling booth together and voted. Ex A45 (s) relates to the vote of Satyavathamma. We see no reason to disbelieve the evidence of R W 40 and hold that this is a validly cast vote.

P.W. 30 deposed that the voter Penumetcha Satyanarayanaraju son of Ramaraju is an engineer serving at Hirakud and that he did not come to Relangi on the election day. He has been serving at Hirakud from the last 5 or 6 years, that his age is about 30 or 31 years and that this engineer is a friend of his. He says there are 4 or 5 persons bearing the name of Penumatcha Satyanarayanaraju in the village but there is no one by name Penumatcha Satyanarayanaraju son of Ramaraju. Ramaraju, father of Satyanarayanaraju is an allopathic doctor and a private practitioner. It is not denied by the respondent that Satyanarayana Raju son of Ramaraju is an engineer serving at Hirakud. But it is argued that the voter in question is not the engineer but some other Satyanarayanaraju. No evidence has been put in by the respondent to show to which other Satyanarayanaraju son of Ramaraju this vote related. If this voter was an engineer serving at Hirakud, it would certainly be impossible for him to come to Relangi, exercise his vote and then go back on the same day. He must have taken a pretty long leave to come to Relangi if he really had come to Relangi and voted. There is no such evidence or even a suggestion by the respondent. The respondent's case is only that this vote related to somebody else. We accept the evidence of P.W. 30 and hold that this is not a validly cast vote.

(51) Chopperla Pullarao.

Schedule III.

58

Ex. A47 (d).

P.W. 56 deposed that the voter Chopperla Pullarao was living at Ondrum, Bhimavaram taluk from the last five years and that he did not come to Relangi on the election day. He worked as a polling agent for ward No. 4 in Relangi on behalf of the petitioner. Vanka Satyam who is actively helping the petitioner in the conduct of this case and who was a Communist candidate for the neighbouring Penugonda constituency in the West Godavari district, is the son of the co brother of this witness. This witness never went to Ondrum. He thinks that as Pullarao did not come to his house on the polling day, he would not have come and voted. When he went to Pullarao's house he was told that he was not in town. R.W. 70 is the voter himself. He deposed that he originally belonged to Relangi and that he went to Ondrum about 3 years ago. He was at Relangi on the polling day and cast his vote. Ondrum in Bhimavaram taluk is connected with Relangi by bus as well as by train. There is nothing improbable in this voter coming from Ondrum and casting his vote. We prefer to accept the evidence of this witness to that of P.W. 56. We hold that this is a validly cast vote.

(52) Kasagani Musalayya

Schedule III.

56

Ex. A46 (e)

P.W. 16 deposed that Kasagani Venkanna who is his mother's elder sister's husband, has two sons both of them were called Musalayyas. The elder is aged 40 years and is living at Darsipudi which is about 15 miles from Relangi. The junior Musalayya is 35 years old and is living at Avupudi which is 30 miles from Relangi. He says that the senior Musalayya left the village about 15 years back and the junior Musalayya about 10 years back. Neither of them were at Relangi on the election day. There are no other Musalayyas sons of Venkanna in the village. In cross examination he stated that he did not work for the petitioner in the elections. He exercised his vote and went away. He could not therefore have known who all came and voted at the election. There is nothing improbable in either of these Musalayyas coming and voting at Relangi. There are a number of Kasagani families in Relangi and none of them have been examined, about the absence of this voter. We hold that this is a validly cast vote.

(53) Pimisi Ramulu

Schedule III.

59

Ex. A37 (e).

(54) do. Samalu.

Schedule III.

69

Ex. A55 (d).

(55) Karri Pentamma.

Schedule III.

76

Ex. A53 (b).

Nos. 53 and 54 are husband and wife. P. W. 87 deposed that about 4 years prior to the election they went to Srungavruksham in Bhimavaram Taluk whereat they own some lands and that neither of them came to Attili for elections and voted. They own a house at Attili. This witness says that though he has a vote he did not cast it and that on the election day he had gone to the fields early in the morning and returned only after night fall. He further says that this election took place during the first crop transplantation season which cannot be true. Evidently, he has no knowledge of which voter came and partook in the elections. His evidence is of very little value. We hold that these two votes are validly cast votes.

P.W. 87 further deposed that the voter Karri Pentamma wife of Sanyasi went to Ganapavaram about 10 days prior to elections and returned 15 days after the election along with her husband. For the same reasons as stated above, we cannot attach much importance to the evidence of this witness. R.W. 6 is the voter herself. She deposed that she was in the village on the polling day and cast her vote and that she did not go to Ganapavaram that day. She deposed that her husband also cast his vote. We accept the evidence of R.W. 6 and hold that this is a validly cast vote.

(56) Bindela Chandramma.

Schedule III.

78

Ex. A25 (o).

P.W. 65 is the voter Bindela Chandramma. Vanka Satyanarayana who is helping the petitioner in the conduct of this case is her elder brother's son. This Satyanarayana was one of the contesting candidates for the Penugonda constituency in West Godavari district. This voter deposed that in 1955 general elections she has got a vote at Pekeru in Penugonda constituency, that she was living at Pekeru from a long time and that as her brother's son was one of the candidates for Penugonda constituency, she exercised her franchise in that constituency. She says that she did not come to Attili and vote. She admits that her parents' village is Pekeru. She also got at Pekeru her elder sister Ganta Nagarama who is the wife of P.W. 4. The electoral rolls of Penugonda constituency were summoned by the petitioner to prove that this voter exercised her vote at Pekeru but it was reported that they have been destroyed and so they could not be filed. P.W. 4 corroborates P.W. 65. There is no evidence *contra* for the respondent. It is more probable that this voter would have exercised her franchise at Pekeru only in view of the close relationship between her and the candidate. If so, she would not have come and voted again at the Attili constituency. We believe the evidence of P.Ws. 4 and 65 and hold that this is not a validly cast vote.

(57) Gundepalli Saraswathi Schedule III. 81 Ex. A59 (g).

P.W. 99 deposed that the voter Gundepalli Saraswathi, wife of Papayya, deserted her husband and settled down at Tanuku 4 or 5 years ago, that she married one Kabuli at Tanuku and was living with him. She did not come to Attili and cast her vote. He says that the husband of this voter is his classmate and that on the election day he and her husband were waiting at the bus stand to see whether this voter would come to Attili so that they can take her away. R.W. 31 is the husband of the voter. He deposed that his wife deserted him only last year, that she was living with him till then and that on the date of the elections she was with him and cast her vote. He further says that it is not true that he and P.W. 90 were lying in wait for this voter expecting that she would come to vote. He denies that P.W. 90 is his friend. We prefer to accept the evidence of R.W. 31 to that of P.W. 90 and hold that this is a validly cast vote.

(58) Jonnala Manikyam. Schedule III. 82 Ex. A60 (d)
(59) Madasu Rangamma Schedule III. 86 Ex. A61 (b).

P.W. 89 deposed that the voter Jonnala Manikyam wife of Gavarayya lives about 20 yards from his house, that Gavarayya died about 7 or 8 years prior to general elections, that the voter went to her parents' village Bavayyapalem about a year prior to the elections. Bavayyapalem is about 14 miles from Attili. She was not at Attili on the date of the elections. In cross-examination, he stated he canvassed votes for the petitioner though he did not cast his own vote. He does not know at which booth he worked or at which booth the voters have to go and poll. R.W. 27 is the voter herself. She deposed that her husband died about 40 years ago, that she owns a house at Attili and is residing there only. She cast her vote in the last general elections. It is not true that she shifted to Bavayyapalem after the death of her husband. There is no reason to disbelieve the evidence of R.W. 27. We prefer her evidence to that of P.W. 89 and hold that this is a validly cast vote.

P.W. 89 further deposes that the voter Madasu Rangamma went to her parents' house at Gudivada four months prior to the election. In cross-examination he admitted that when he went to distribute chits Rangamma's husband told him that she had gone to Gudivada. The husband has not been examined. The evidence of P.W. 89 is purely hearsay. We therefore do not accept the evidence of P.W. 89, and hold that this is a validly cast vote.

(60) Thota Dhanalakshmi Schedule III 83 Ex. A60(e)

P.W. 49 deposed that the voter Thota Dhanalakshmi is his wife, that he and his wife were at Tanuku on the election day and were working in the rice mill of Satyanarayana Prakasarao at Tanuku. He was working in that mill for one year prior to the elections. He and his wife did not go to Attili to cast their votes. Ex. A109(a) is the entry relating to this witness in the electoral roll. He further deposed that the mill in which he was working belonged to P.W. 48, that it was given on lease to one Satyanandam and not under any other and that this Satyanandam took the mill on lease in July 1955. It was after Satyanandam took the mill on lease that he joined the service. In re-examination he stated that prior to the joining of the service of Satyanandam he was at Attili only. His evidence, therefore, shows that his service at Tanuku was only after the elections and not prior to it. R.W. 59 deposed that P.W. 49 worked in Rama's rice mill at Tanuku during the elections. Attili is about 8 to 9 miles from Tanuku and is connected by bus and train routes. Even if P.W. 49 was working at Tanuku, there is nothing improbable in his wife going to Attili on the polling day and exercising her franchise. We do not believe the evidence of P.W. 49 and hold that this is a validly cast vote.

(61) Guttindeevi Venkataratnam. Schedule III. 89 Ex. A64 (c).

(62) do. Nagamma. Schedule III. 101 Ex. A20 (j)

These two voters are son and mother. P.W. 8 deposed that these two voters had gone to Marteru which is 12 miles from Attili about 4 or 5 days prior to the polling day and that they did not return on the polling day. He said that the voter Venkataratnam told him that they would go to Marteru and that on the election day his wife told him that these two voters had not returned and that they would be coming in 10 days. He did not actually see Venkataratnam and his mother leaving the village. He went to the voters' house at 8 a.m. on the polling day and did not go there thereafter. His evidence is of what he heard from Venkataratnam and his wife. This is hearsay. Neither Venkataratnam nor his wife were examined in this case. R.W. 28 Guttindeevi Nagamma the mother is examined for the respondent. She deposed that she and her son were at Attili alone on the day of the election and that both of them had cast their votes. We see no reason to disbelieve the evidence of R.W. 28. P.W. 8 is a Communist worker for the petitioner and is interested in him. We hold that these two votes are validly cast votes.

(63) Pary Jan.	Schedule III.	55	Ex. A20 (k).
(64) Shahajadi.	Schedule III.	96	Ex. A20 (l).
(65) Sheik Musafarunnisa.	Schedule III.	102	Ex. A20 (q).
(66) Sheik Meera Sahib.	Schedule III.	106	Ex. A35 (g).

Nos. 63 and 64 are sisters. P.W. 51 deposed that both of them were living at Akiveedu from about 2 years prior to the election and that they did not go to Attili on the election day and vote. P.W. 14 says that he knew that they did not vote because they did not come to him on the election day and that if they had come, they would certainly have met him. Akiveedu is about 20 miles from Attili and is connected by bus route. There is nothing improbable in these voters coming and exercising their franchise. R.W. 21 is the husband of Pary Jan. He deposed in chief-examination that his father owns a house at Attili, that he shifted to Akiveedu about 3 years back, that Shahajadi is the younger sister of his wife and that himself, his wife, his wife's sister and her husband went to Attili on the polling day and cast their votes. They stayed in his father's house. Akiveedu is 20 miles from Attili and is connected by bus service. Ex.A63(b) is his vote. Ex.A64(g) relates to Syed Ahmad's vote. Both of them were polled. In cross-examination, he completely turned hostile and stated that neither he nor his wife nor his wife's sister, nor his co-brother voted at the election. P.W. 1 who is the chief organiser of the petitioner's election campaign was in Court hall on that day. P.W. 51 also was in court. It is suggested by the respondent that at the instance of P.Ws. 1 and 51 that this witness has turned hostile. In spite of Ex.A63(b) which shows that his vote had been polled, this witness has the audacity to deny that he had not cast his vote. It is not the case of the petitioner that neither Ex.A63(b) nor Ex.A64(g) are impersonated votes. There is no doubt that this witness was turned hostile at the instance of the petitioner's men. His evidence is untrustworthy. R.W. 32 is the step-brother of R.W. 21. He deposed that R.W. 21's wife Pary Jan, her sister Shahaja Bi, her husband Syed Ahmad had all come to Attili on the polling day and stayed with him and that they had all gone to the polling station to cast their votes. They left for Akiveedu on the next day. He also said that R.W. 21 is a bad character and has been once sent to Borstal School in connection with an offence. R.W. 32 also voted and his vote is Ex.A63(c). We prefer to accept the evidence of R.W. 32 to that of R.W. 21, and we hold that these two votes are validly cast votes.

P.W. 51 deposed that this voter Musafarunnisa, wife of Azam eloped with a compounder 4 years prior to the election and went away to East Godavari district and that she did not come to Attili on the election day and exercise her franchise. In cross-examination, he admitted that nobody in the village told him that she came to Attili on the election day and that was the reason why he is saying that she did not come. This is no positive evidence. He is not personally aware of her absence at the polling booth or in the village on the polling day. We hold that this is a validly cast vote.

P.W. 51 deposed that the voter Sheik Meera Sahib is a postal runner, that 4 years back he was working at Attili and that he did not come to Attili on the election day. He is not aware where he was working then. In fact, this witness does not know the whereabouts of this voter. He cannot say that he was absent at a particular village on the polling day. It is neither improbable nor impossible for this voter to have come and voted on the election day. We find that this evidence is not sufficient to hold that this is not a validly cast vote. We find accordingly.

(67) Potla Chittैया.	Schedule III.	109	Ex. A78 (a).
(68) Tatiparthi Venkanna.	Schedule III.	111	Ex. A66 (d).
(69) Killadi Saheb.	Schedule III.	115	Ex. A66 (h).
(70) Ejerla Jacob.	Schedule III.	116	Ex. A66 (j).

P.W. 66 deposed that the voter Potla Chittappa went to Kakinada 5 or 6 months prior to the election day and lived with his son at that place and returned to Attili a few months back and died. He deposed that he is closely related to the sons of this voter. He further deposed that the voter Tatiparthi Venkanna migrated to Reddisseema on the third day of Sankranthi prior to the election and returned only on the New Year's Day. There is no evidence *contra* for the respondent but yet we feel that the evidence for the petitioner is not conclusive to show that these voters have not actually come to Attili on the polling day. If any person had been examined from the places at which they are alleged to have been living on the election day, it would have been more clinching. No such witness has been examined in this case. There is nothing improbable in these witnesses coming to Attili and exercising their franchise without P.W. 66 knowing the same. Further, P.W. 66 is a partisan witness having been very closely associated with the petitioner. We feel it unsafe to accept the evidence of P.W. 66 and hold that these two votes are validly cast votes.

P.W. 66 deposed that the voter Killadi Saheb went to Tadepalligudem, his wife's place, about 5 or 6 months prior to the election and was working in the rice mill at Tadepalligudem. He did not come to Attili on the election day. If he did really work at Tadepalligudem on the election day, the attendance register in the mill would have been the best evidence in the case. No such evidence was let in. Tadepalligudem is not far away from Attili and is connected by bus and train routes. R.W. 12 is the voter himself. He deposed that he never worked in any rice mill in Tadepalligudem, that he was working in the mill of one Kamayya at Attili and that he was at Attili on the election day and cast his vote. There is no reason to disbelieve the evidence of R.W. 12. Hence we hold that this is a validly cast vote.

P.W. 66 further deposed that the voter Ejerla Jacob is a mad man, that he left the village about 2 years prior to the election and that his whereabouts are not known. He admits that his father is alive. R.W. 62 is the father of the voter. He deposed that the voter Jacob was in the village on the polling day and voted. It is not true that he has gone mad and has absconded from the village. Jacob's wife, the wife of John who is another son of this witness and this voter had all voted on that day. Ex.B11(b), B11(c), and A66(k) are the respective votes marked in the electoral roll. We accept the evidence of the father of the voter in preference to that of P.W. 66 and hold that this is a validly cast vote.

(71) Narkidimilli Viswesara-rao.	Schedule III.	112	Ex. A66 (e).
(72) Kankipati Bathelu	Schedule III.	115	Ex. A 66 (f).
(73) Pydi Pushpinadham.	Schedule III.	114	Ex. A66 (g).

P.W. 59 deposed that the voter Narkidimilli Viswesararao was studying in the training School at Eluru at the time of the election, that he went 3 months prior to the election and did not return on the election day and vote. R.W. 76 is the voter himself. He deposed that he underwent training in Gopnapalli 3 miles from Eluru in 1954, that he came to Attili 2 days prior to the polling day on casual leave, and went away 3 days after the elections and that himself, his elder brother and his wife have all voted at Attili. There is no reason to disbelieve the evidence of R.W. 76. P.W. 59 deposed that Kankipati Bathelu son of David was at Tanuku from 4 months prior to the election day and that he did come to Attili on the election day. Tanuku is after all 8 miles from Attili and is connected by bus and train routes. R.W. 2 is the voter himself. He owns a house at Attili. He deposes that at the time of the last general elections he was working in the sugarcane factory of P.W. 18 as juice measurer and that on 18th February, 1955, he worked in the shift commencing from 2 A.M. till 9 A.M. and then went to Attili and exercised his vote. His vote is marked as Ex. A66(f). We believe the evidence of this witness in preference to that of P.W. 59. P.W. 59 further deposed that the voter Pydi Pushpinadham was at Tadepalligudem on the election day and did not come to Attili and vote. R.W. 7 is the voter himself. He deposed that he never lived at Tadepalligudem and that it is not true that he was at Tadepalligudem on the polling day. He was at Attili and voted. He owns a house at Attili. Tadepalligudem is about 12 miles from Attili and there is bus service. We prefer to accept the evidence of R.W. 7 to that of P.W. 59 and hold that these 3 votes are validly cast votes.

(74) Pericherla Mangayamma.	Schedule III.	122	Ex. A75 (p).
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P.W. 44 deposed that the voter Pericherla Mangayamma wife of Ramaraju and her parents were not at Oduru on the election day. The entire family of her parents left the village 2 years before the polling day as their house was burnt in a conflagration and they settled down at Palacole. Her husband belongs to Ryali. Mangayamma was residing at Ryali in her husband's house ever since her marriage. The father's name of this voter is Suraparaju. Narasimharaju is the father of Suraparaju. Surayamma is his wife. The witness admits that both of them came to Oduru on the polling day and voted but denies that Mangayamma had come and voted. The witness is a staunch Communist having been

put under detention for some time by the Government and as such very much interested in the petitioner. He was also the polling agent. He was not at the polling booth when Suraparaju and Surayamma voted. In the same way as Suraparaju and Surayamma had come and voted there is nothing improbable for Managayamma also to have come and voted. The witness is a Christian whereas the voter is a Kshatriya. No relations of the voter have been examined to show that this voter did not come to Oduru on the election day. R.W. 78 deposed that the voter Mangayamma is his nephew Ramaraju's wife, that Ramaraju settled down at Oduru about 5 years ago. He was residing in the house of this witness. On the polling day the voter was in his village and cast her vote. The voter's family migrated to Kondangi a year back. We prefer to accept the evidence of R.W. 78 to that of P.W. 44. We hold that this is a validly cast vote.

(75) Balam Thirupamma.

Schedule III.

123

Ex. A75(q).

P.W. 27 deposed that the voter Balam Thirapamma, wife of Krishnamurthy was residing at Garagaparru having eloped with one Seelaboyina Venkanna. She has been residing there since 6 years. Krishnamurthy married a second wife Pallamma about 4 years ago. Garagaparru is about 10 miles from Oduru. There is nothing improbable in the voter having come from Garagaparru to Oduru and exercised her franchise. This witness is a washerman while the voter is a *settibaliya*. The witness might not have known even if the voter had come to Oduru on the election day. We hold that this is a validly cast vote.

(76) Burra Lakshamma.

Schedule III.

124

Ex. A75 (r).

P.W. 57 is the voter herself. Her first husband is Borra Ganneyya. She divorced him about 7 years back and married Medida Venkanna a year after the divorce. Ever since she was living at Achanta with her husband. Achanta is in Palacole constituency. She has a vote at Achanta and she exercised the franchise at that place. She deposes that she did not know that she has got any vote at Oduru and that she never went to Oduru and cast her vote in 1955 elections. P.W. 28 is one of the caste elders at Oduru. He deposed that the voter was living at Achanta for the last 7 or 8 years, with her second husband and that she did not come to Oduru on the election day. P.W. 40 is the sister of Burra Lakshamma, the voter. She deposed that the voter was first married to Burra Ganneyya about 10 years ago, that she lived with Ganneyya for 3 years, that owing to certain quarrels between the husband and wife there was a divorce in the presence of caste elders and that she married again Medida Venkanna of Achanta and that ever since she was living at Achanta only. She did not come to Oduru on the election day. There is no evidence contra for the respondent. In this case there is the evidence of the voter herself and her close relations to show that the voter was actually at Achanta on the election day. We believe the evidence of these three witness and hold that this is not a validly cast vote.

(77) Pallepudi Bulli Viranna.

Schedule VI.

97

Ex. A42 (a).

P.W. 71 deposed that the voter Palepu Bulli Viranna son of Rattayya was serving as a police constable in the Telangana area during the election period and that he did not come to Relangi and exercise his vote on the election day. His house is near that of Rattayya. The voter has two younger brothers and they performed the obsequies of Rattayya when he died about 5 year ago. This witness is the brother of Gandham Satyanarayana (P.W. 77) who is a Communist and a close associate of the petitioner. This witness also worked for the petitioner in the elections. R.W. 53 deposed that the voter Bulli Viranna is his wife's brother, that though he was working in the Telangana area he would be coming to Relangi now and then, that he was in his house on the day of the election. The voter came to Relangi two months prior to the election and left the village about 2 months after the election. He had brought his wife for confinement. Bulli Viranna cast his vote on the election day. We accept the evidence of R.W. 53 in preference to that of P.W. 71 and hold that this is a validly cast vote.

(78) Mariseti Pichayya.

Schedule VI.

112

Ex. A42 (c).

P.W. 13 deposed that this voter Mariseti Pichayya is his paternal aunt's son and that he was at his father-in-law's house at Arugullu on the election day. He went there for Sankranthi of 1955 and returned some months after the elections. He did not vote on the election day. Arugullu is 12 miles from Relangi. P.W. 13 is a worker for the Communist party in the elections. R.W. 53 deposed that the voter is his father's brother's son, and that his father was adopted into Achanta family. This voter Pichayya resides at Relangi. He was at Relangi on the election day and had cast his vote. We prefer to accept the evidence of R.W. 53 to that of P.W. 13 and hold that this is a validly cast vote.

(79) Pasupuleti Nagamma.

Schedule VI.

216

Ex. A49(b).

P.W. 54 deposed that the voter Pasupuleti Nagamma is his paternal aunt, that she is alive now and is aged 90 years and lives in his own house. She is not able to move out of her cot from the last 3 years. She answers her calls of nature also from the bed. In

1955 elections she did not go for voting. She was in bed even then. Both parties came and asked her to come for voting. But the witness said that she was not in a position to move. There is no evidence contra. The witness is a close relation of the voter and swears that on account of her old age she was not in a position to move from the house. We accept the evidence of P.W. 54 and hold that this is not a validly cast vote.

(80) Karumanchi Saramma. Schedule VI. 226 Ex. A49 (c).

P.W. 24 deposed that the voter Karumanchi Suramma wife of Venkanna eloped with a *mala* of Relangi by name Thadepalli Veeranna of Venupadu about 4 years prior to the election and that she was ever since living in that village. Venupadu is 15 miles from Relangi. R.W. 58 is the husband of this voter. He deposed that his wife deserted him and went to Venupadu which is her parents' place about 2 years ago and that his wife was with him on the election day and cast her vote. It was only 2 or 3 months after the election that she quarrelled with him and went away to her parents' place. He denies that his wife eloped with Thadepalli Viranna. The latter is living at Relangi with his wife. We prefer to accept the evidence of R.W. 58 to that of P.W. 24 and hold that this is a validly cast vote.

(81) Nekkanti Meeramma. Schedule VI. 233 Ex. A49 (h).

P.W. 19 deposed that the voter Nekkanti Meeramma is the 1st wife of Abbulu who is the son of this witness. She eloped with some one about 4 years back and left the village. This witness does not know whether Meeramma came for voting at the last elections. He did not see her on the election day. The evidence of this witness carries us nowhere. It is very inconclusive and as such, cannot be accepted. We hold that this is a validly cast vote.

(82) Thumu Nagaratnam. Schedule VI. 387 Ex. A36 (b).

This voter's name finds a place in schedule VI which is a list of dead voters. But evidence now is that she is an absentee voter. P.W. 68 deposed that this voter, Thumu Nagaratnam, is the wife of his brother Satyam who was working as a railway colly at Bhimadole during the election period. The voter was then in the 9th month of her pregnancy and so she did not come and vote on the election day. Neither the voter nor her husband is examined in this case. Nobody at Bhimadole was examined to show that she was at Bhimadole on the election day. This witness deposed that he told P.W. 1, the chief organiser of the petitioner about this vote 15 days after the polling, and yet, we find her name mentioned in schedule VI. We feel it unsafe to accept this evidence. We hold that this is a validly cast vote.

(83) Edepalli Gopalam. Schedule III. 87 Ex. A62(c)

P.W. 53 is an electrical supervisor at Tanuku. Ex. A110 which is the casual leave register of the electrical Supervisor's office, Tanuku from January, 1955, up-to-date shows that E. Gopalam is an helper in the office and that he took casual leave on 8th April, 1955, and 9th April, 1955. He cannot say from which date to which date this Gopalam worked in this office. No Attendance registers are maintained for them. The records in the office show that Gopalam was in service in Tanuku Office from February, 1955, till December, 1955. He was in service in 1954 also. In cross-examination, he admitted that Attili is not within the area of this Supervisor and that a helper is to accompany the line-man to any place in the area. Line-man and helpers are sent to Attili if there is work at Attili. The evidence of this witness is very inconclusive. It does not show that on 18th February, 1955, he was working at Tanuku only and that he was not sent to any other place along with the line man. We cannot hold on the evidence of this witness that this voter did not exercise his vote on the election day. Tanuku is after all 9 miles from Attili and is connected by bus and train service. We, therefore, hold that this is a validly cast vote.

(84) Kasangani Mahalaxmi. Schedule III. 47 Ex. A45 (l).

P.W. 75 is the son of the voter Kasangani Mahalaxmi. He deposed that about a month prior to the election and prior to Sankranti she went to her parents' house at Thamalapalem hamlet of Mudugupoladam in Bhimavaram taluk and that she returned about 2 months after the election. His maternal uncle Katta Satyanarayana who lives in the village detained his mother for a long time in his house having lost his son. He is definite that she did not come to the village on the polling day. There is no evidence contra. We accept the evidence of the son of this voter and hold that this is not a validly cast vote.

29. It has been urged by the learned Advocate for the petitioner that in many of the impersonated cases the respondent did not let in any rebutting evidence and in cases where evidence was let in, the positive case of the respondent was not put to the petitioner's witnesses when they were in the witness-box. It is, therefore, contended that the evidence

of the P.Ws. ought to be accepted. As we have held above corrupt practices are quasi-criminal in nature and the burden lies heavily upon the person who alleges the corrupt practice to prove the same. The burden does not shift to the respondent merely because some positive suggestions were made in the course of cross-examination of P.Ws. It is only when certain facts are within the special knowledge of the respondent that evidence may have to be let in by her. It has been held in *Sambhu Nath v. State of Ajmer* (1) as follows:—

"Section 106 (Evidence Act) is an exception to S. 101. The latter with its illustration (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and S. 106 is certainly not intended to relive it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish facts which are "especially" within the knowledge of the accused and which he could prove without difficulty or inconvenience. The word "especially" stresses that. It means facts that are pre-eminently or exceptionally within his knowledge."

We, therefore do not accept this contention of the petitioner.

30. From the above discussion and findings the following votes have been held to be invalid and hence they are struck out.

Name	Schedule No. & Item No.	Exhibit No.	Double vote, etc'
1. Addala Benkataswamy . . .	III-7.	A32(g).	Double vote.
2. Thummalapalli Pitchayya . . .	IV-1.	A41(a).	Do.
3. -Do- . . .	IV-15.	A41(b).	Do.
4. Iragavarapu Viramma. . .	IV-15.	A75(m) or A75(n).	Do.
5. Telagareddi Sriramulu. . .	I. 72	A27(a).	Dead vote.
6. Gundepalli Ganemmma . . .	I. 99	A59(a).	Do.
7. do. Veeramma. . .	I. 103	A59(e).	Do.
8. Pothula Achamma. . .	I. 114	A64(a).	Do.
9. Dirisala Musalayya. . .	I. 117.	A62(a).	Do.
10. Nazubunnissa. . .	I. 124.	A20(d).	Do.
11. Pasupuleti Anjaneyulu. . .	VI. 24.	A32(c).	Do.
12. Gadiraju Subbayya. . .	VI. 190.	A48(b).	Do.
13. Bandi Maremma. . .	I. 156.	A75(a).	Do.
14. Kalla Chellarao. . .	I. 14.	A29(d).	Do.
15. Chandaram Narasamma. . .	I. 21.	A28(d).	Do.
16. Penumetcha Satyanarayana Raju . . .	III. 54.	A46(c).	Absentec vote.
17. Bindela Chandramma. . .	III. 78.	A25(b).	Do.
18. Burra Lakshmamamma. . .	III. 125.	A75(r).	Do.
19. Pasupuleti Nagamma. . .	VI. 216.	A49(b).	Do.
20. Kasagani Mahalaxmi. . .	III. 47.	A45(l).	Do.

31. The total number of impersonated votes, are, therefore, 20 in number.

Issues 1 to 5 and additional issue 17 are found accordingly.

32. *Issues 6 and 7.*—If the respondent or her agents are to be held responsible for the impersonation of the above 20 votes, it should be shown by the petitioner that in each instance which agent of the respondent procured or connived at this impersonation. It is not sufficient if he merely states that from the surrounding circumstances in the case the agent or the candidate must have had cognizance of the fact of impersonation. In the list of particulars he should give the name of the agent as against each of the impersonated vote so as to give an opportunity for the respondent to rebut the case of the petitioner. Schedule VII is a list of agents given by the petitioner, who are alleged to have participated in the several corrupt and illegal practices pleaded by him. It is not stated therein which particular agent was responsible for which corrupt practice and in the case of impersonated votes which agent abetted the impersonation of which vote. These are very material particulars to be given under S. 83(2) of the Act. The absence of these particulars is very fatal to the contentions of the petitioner under these issues.

33. As regards cases which we have held to be the cases of impersonation, there is practically no evidence in relation to any case connecting any agent of the respondent with the impersonated vote. In no case was it alleged or proved that a particular person was

the impersonator or that any agent knowingly identified a personator as being the real voter. No personator has been examined in the case to prove any instance. Petitioner's advocate relies upon the surrounding circumstances of certain cases to show that the agents of the respondent were responsible for the impersonation of those cases. We have held that the vote of Addala Venkataswami [Exs. A32(g) and A38(e)] was entered twice in the electoral roll, one at Varighedu and the other at Relangi, and that the vote at Relangi was an impersonated vote.

34. It is argued by the learned advocate for the petitioner that this voter Addala Venkataswami is the son-in-law of Rangiseti Viranna who is the polling agent for the respondent at the Relangi booth and that the said Viranna knowing that his son-in-law had not come and voted at Relangi connived at somebody else personating him and casting his vote. In the first place, Rangiseti Viranna is not one of the agents mentioned in schedule VII given by the petitioner, not to speak of his having stated anywhere in the petition or list of particulars that this Rangiseti Viranna connived at the impersonation of this particular vote. Without this particular, the petitioner cannot argue that the election is vitiated on this ground. Secondly, there are three polling agents at this booth in question, of whom, Rangiseti Viranna is one. There is no evidence to show that at the time this particular vote of Addala Venkataswami was polled, Rangiseti Viranna was in the polling booth acting as the agent of the respondent. It may be that this vote was polled at a time when the other two agents were acting and that they may not have known who this Addala Venkataswami is.

35. Further, it is in the evidence of P.W. 25, the petitioner, that on 4th May, 1955, there was a rioting between two parties in Relangi and that the respondent and R.W. 20 tried to get the petitioner arrested. He further said that one of these factions was headed by Rangiseti Viranna and the other by Sirigineedi Satyam (R.W. 49) who was the worker for the respondent, and that the disputes between these factions were there from 3 or 4 years prior to the election. It is also said that owing to this disturbance, R.W. 83, the respondent, reported the matter to the District Superintendent of Police and also brought him to the locality. P.W. 78 the voter Addala Venkataswami admits that there are disputes between his father-in-law and Siriginneedi Satyam. Addala Venkataswami has now come and deposed for the petitioner. On these facts, it is argued by the learned advocate for the respondent that it could hardly be said that Rangiseti Viranna was his real agent or that he actively abetted impersonation of any votes in favour of the respondent. This argument is not without force. Whatever it be, there is no positive evidence that Rangiseti Viranna had any hand in the impersonation of this vote.

36. It is next urged that from the way in which Revada Talupulamma's vote was recorded, it should be inferred that the agents of the respondent connived at it. We have held that this is not an impersonated vote and that in fact Revada Talupulamma had not exercised her vote at all. There is, therefore, no need to consider this question. The third instance relied upon by the petitioner's advocate is the case of Telagamsetti Sriramulu. We have held that this is an unpersonated vote. It is urged that R.W. 8 was the polling agent at this station and that this impersonation should have been connived at by this agent. Ex. A250 is the polling agent form of R.W. 8. There are two more polling agents at this station as per Exs. A263 and A264. There is no evidence on the side of the petitioner to show when this particular vote was cast and which polling agent was then in the polling station. Further, there is also no evidence to show that this particular voter is personally known to any of these polling agents. At every polling station there will be a polling agent of each party and from that fact alone it cannot be concluded that every case of impersonation is at the connivance or instigation of one or other of the polling agent. No such presumption can be drawn. No particulars also have been given in the list of particulars that this vote was got impersonated by any particular agent.

37. Barring these three instances, the petitioner has not been able to lay his finger on any other cases of impersonation connecting the same with any particular agent with any positive proof. We therefore hold that neither the respondent nor any of her agents are responsible for the votes which we have held to be impersonated votes. Further, in this case the respondent is herself the election agent. She stated in her evidence that she particularly instructed all her agents not to indulge in any corrupt or illegal practice. Under section 100(3) of the Act if a candidate has specifically issued such orders to the agents, the Tribunal may decide that the election of the returned candidate is not void. In view of all these circumstances, we hold issue 6 against the petitioner.

38. In view of our finding on issue 6, the next question to be considered is, whether the election is materially affected. The difference in votes polled by the petitioner and the respondent is 178. We have held that the number of impersonated votes which have to be struck out are 20. Even assuming that all these 20 impersonated votes were polled for the respondent and deducting the same from 178, the respondent would still have a majority of votes. As such, we hold that the election has not in any way been materially affected. Only the majority of votes has been reduced to a little extent.

39 Issue 11—This deals with a major corrupt practice coming under section 123 (5) of the Act which runs as follows—

'123 (5) The publication by a candidate or his agent or by any other person with the connivance of the candidate or his agent of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate being a statement reasonably calculated to prejudice the prospects of the candidate's election'

To bring a statement within the mischief of this provision the following elements have to be made out—

- (i) The statement must be one of fact and not an expression of opinion
- (ii) It may be in relation to the personal character or conduct of the candidates,
- (iii) The statement must be false to the knowledge or belief of the person who made the statement
- (iv) Such a statement must reasonably be calculated to prejudice the prospects of that candidate's election

It is only when all these elements are satisfied that it can be said that the statement is out by s 123(5). In all these cases a distinction must always be drawn between the criticism of a candidate in his political or public capacity from that of his private or individual capacity. Criticism of a candidate in his public capacity, however, strong and unfair it may be, does not render the election void. It is only when the attack is directed against the honour and integrity of a candidate in his private capacity that the election has to be set aside. Such a kind of personal attack must also be proved to be untrue. Again, the attack must be a statement of fact as opposed to an expression of opinion. The alleged false statement must also directly injure his personal character. It must be explicit and derivable from the plain language of the words used in the statement. It should not be by indirect implication. In order to determine the effect of such false statement, the average intelligence of a reader or a person who heard such statement and for whom the publication was intended is also an important factor to be taken into consideration. And such a statement must reasonably be calculated to prejudice the prospects of the candidate's election.

40 This charge of vilification against the petitioner is mentioned in paragraphs 29 and 30 of the petition, and 31 to 60 of the list of particulars. It is alleged that the respondent's agents carried on a propaganda against the petitioner by saying that the petitioner is encouraging people to drink though himself and his wife and children do not indulge in that evil habit and that the petitioner is also involved in the dacoity cases of Kanchumarru and Nadupudi villages and the murder cases of Valamarru and Archanta Vemavaram. It is said that this propaganda was carried on

- (1) by speeches in public meetings,
- (2) by mike propaganda in streets and villages,
- (3) by wall posters,
- (4) pamphlets, and
- (5) paintings on walls

This propaganda was made, according to the petitioner, knowing it to be false and with a view to injure the prospect of the success of the petitioner at the election. Respondent denies all these allegations.

(1) SPEECHES—

Penumantra.—There was a meeting held at Penumantra on 28th January, 1955 in furtherance of the respondent's election campaign. This meeting was addressed by Sri Alluri Satyanarayana Raju a Member of the Parliament and the present President of the A.P.C.C. and also by Sri B. Gopalareddi, the then President of the A.P.C.C. and the present Finance Minister of the Andhra Pradesh. It is alleged that the speaker at this meeting have attacked this petitioner as having been involved in the above said criminal cases that he is running his election campaign by the booty derived from the dacoities mentioned above and further that the petitioner is encouraging people to drink though he himself does not drink and asks his wife and children also not to drink. PWs 25, 64, 72 and 45 speak about this meeting.

41 PW 25 is the petitioner. He deposed that a public meeting was held at Penumantra which is his place of residence in the last week of January at Santha Bazaar. One Kama reddy presided at that meeting. PW 25 was then at a temple which is 60 yards from Santha Bazaar. There was a mike and loud speaker used at the meeting. RW 44 was the first speaker therein. PW 25 deposed that RW 44 said in his speech that the petitioner does not drink, he does not allow his wife and children to drink, but he encourages other people to drink. He further said that the petitioner is involved in the dacoity cases of Kanchu-

maru and Nadupudi and the murder cases of Achanta and Valamaru, and that the election campaign is being run from out of the booty got by these offences. R.W. 46, Sri B. Gopala Reddi, next spoke at the meeting. He only spoke of the ideologies of the Communist and the Congress parties and exhorted the voters to support the Congress candidate. P.W. 25 further stated that while R.W. 41 was closing his speech, Naghreddi (T.W. 64), Sivangula Sambamurthy (P.W. 72) and Ramireddi and some others came to him and told him that they would lodge a protest against the personal vilifications made by R.W. 41 but that he dissuaded them from doing so fearing that there would be a clash leading to violence. The petitioner, P.W. 25, further stated that there is no manner of connection between him and the offences mentioned above, that he was impleaded as an accused in the Kanchumaru dacoity case when he was under detention, but that it was later withdrawn by the Government themselves, that he was not involved either in Nadipudi, Valamaru or Achanta cases, that all these cases were of the year 1950 and were thrown out after trial and that the respondent's agents spread all this false propaganda knowing it to be false. P.W. 64 (Dwarampudi Nagireddi) is the President of the Penumantra Panchayat Board. He also attended the meeting in question. He corroborates P.W. 25. He denies that he is a member of the Communist party or that he worked for the petitioner in the elections. He and some others went to the petitioner while he was at the temple and asked him to lodge an open protest but that he dissuaded them from doing so. P.W. 77 (Gandham Satyanarayanamurthy) deposed that he also attended this meeting and heard of the above false propaganda against the petitioner. He is the polling agent for the petitioner and also worked for him in the election campaign. P.W. 45 (Matta Veeraswami Nanda) is a reporter to "Andhra Prabha". He lives at Marteru in West Godavari district. He deposed that he accompanied Sri B. Gopala Reddi in his election tour in January and February 1955, that he attended the meeting at Penumantra on 18th January, 1955 and that he sent a report of this meeting to the Editor of the Andhra Prabha and that Ex.A80 is the Newspaper report. He admitted in cross-examination that Ex.A80 is not the entire report he sent but only a portion of it, that other portions were disconnectedly cut out, that he made notes of the speech as and when he heard which he finally put it in the form of a report at his house, that the reference in Ex.A80(a) is to the Communist party as a whole and that he cannot say whether the letter "—" in Ex. A80(b) is a mistake for "—". The notes said to have been prepared by him have not been filed in this case. Nor was the original report sent by him to the Editor of the Andhra Prabha, put in evidence. The relevant portions of Ex.A80 are:—

Sabbanu Sri Alluri Satyanarayana Raju garu praarambhisthoo, ilaa cheppaaru. "Congress Abhyardhi Ammanna Raja ki Poaty-gaa comrade Daatla Poaty cheshthunadu. Ec comrade Kallugeetha Kaarnikulaku Naayakudata. Eeyana thallidrandulanu kani, bhaaryanu kaanii thraagatunnadu. Kaani Kaarnikulanu Kallu thraagamatunnadu. Adi entha nyaayamaa unnadameere aalochinchandi."

Ec praanthaalo chesina doapidicilaku naayakathwamu vahinchi entho dabbunu aadaa chesu kunna vaaru, vallamaru munasabu gaari kaalunu goddalitho narakadam loalu, Achanta, Vemavaram Kaapurasthudu, chenetha Kaarnikudu chialla Subharaayunni (63 sam bi) Penumadam daggara bandi-lo nunchi lagi mukkalugaa narakadam-loanu, paalgonna mahaa paapulux, nedu nee munduku vacchi votlanu adugu-thunnaaru.... Ituvanti kroorulanu saasanasabha-ku pampisthe, inkemi cheyagalaraa, meere aalochinchu konandi [Ex. A-80 (a)]."

"Vidyaadhiku-raalu, saasanakartha, saamggika sevakuraalu jallusikshanu ambhavinchina Andhramahila srinathi Ammanna Raja garu meeka praathividhyam vahinchadam mee adrushtamane cheppali".

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Tharvaatha, harshadhwana madhya Gopala Reddy garu lechi ilaa vupanyasincharu:—

"Nedu Zaragaboaye Ennikalu iddaruvyakethulu madhya kaadu; Rendu aarayade madhya—Ave prakaaswaamyamu, niyanthruthwamu. Bharatha Communist Party ki swathanthra aalochana-bi kaani, aasayaalu kaani, levu. Adi sarvadaa Russia nunchi thama vidhaanaanni digumathi chesu-kuntoondi. Mana Bharatha disam ellappudoo thattstham gaave vuntoo-vachindi. Mana thatastha vidhaanam mana communistulaku gittadu***"

Ex. A112 is the Andhra Patrika Daily, dated 2nd February 1955. Ex. A112(a) is a report of this meeting held at Penumantra on 18th January 1955. The relevant portions of this report are as follows:—

"Parliament Sabhyulu Alluri Satyanarayana Raju garu sabhannu praarambhisthu, niyojakayaiga communist abhyardhi gatha-charithra nee vimarsinchaaru."

"Gopala Reddy garu prasthutha jatheeya autharjatheeya parusthithulam vivarinchaaru."

The reporter who sent this report has not been examined. Nor was the original report to the Editor of the Andhra Patrika filed in the case.

42. R.Ws. 44, 46, 83 and 86 speak on behalf of the respondent denying the above allegations. R.W. 44 is Sri Alluri Satyanarayanaraju. He deposed that Shri Prakasam was the Chief Minister of the Andhra State till 6th November 1954, that the policy of the Congress was absolute prohibition, that the opposition party including the Communists moved a resolution in the Legislature to implement the recommendations of the Ramamurthi Committee on Prohibition, that the Legislature by a majority of one vote passed this resolution and that the Ministry treated this resolution as a vote of no-confidence against them and that they had to resign on this issue. He further deposed that the Communists were not in favour of absolute prohibition. He said that in the meeting held on 18th January 1955 at Penumantra he only spoke of the general policies of the Congress and the Communist and that he did not personally attack the petitioner. With regard to Prohibition, he spoke as follows:—

"It is true I said: 'Eeyana thallithandrunanu kaani bhaaryanu kaani thraagamanadu'. By this I meant to compliment the petitioner. I also stated that the petitioner himself does not drink. But I did not say:

"Kaani kaarmikulunu thraagamantumadu. Idi entha nyaayamga vunnado meere aalochinchandi."

What I stated with regard to the policy of the Communists is this as far as I can recollect:—

"Ayithe Communist Party sabhyulu kaavadam valla, communisthulu S. V. Ramamoorthy nivedikanu aamoodin chavalasinadi gaa hetcharika chedamu, madya nishedha chattamunu tholagimcha valasinadigaa Ramamoorthy committee chesina sifaarsu nu amalu pettamani Assembly lo cheyabadina theermaanamunaku communistulu vote cheyadamvall, vaaru madya nishedhaaniki vyathirekulu ani adhamu. Idi entha nyaayamo aalochinchandi."

As regards dacoities and other offences, he deposed that he attacked only the policy of the Communists which was one of violence and that he never attributed the offences personally to the petitioner. He attacked the Communist party as a whole for encouraging dacoities and arson and for following a policy of violence in furtherance of its party principles. He mentioned the above incidents as examples of the creed of violence pursued by the Communists. He never had the name of the petitioner in particular in his mind when he addressed the meeting. He did not know, as a matter of fact, whether the petitioner was involved in any of these criminal cases. The reference to the lion and the rat in Ex. A80(c) which is part of his speech was only to parties and not to individuals. He spoke only of the past history of the Communist party and not of the petitioner individually. He did not say that the Communist party was supporting itself on the moneys realised by any dacoities or such other offences.

43. R.W. 46 (Shri B. Gopalareddi) deposed that R.W. 44 talked only of the Prohibition policy of the Communist party and the creed of violence it was adopting and not about the private or personal conduct of the petitioner. He said that he spoke only about the ideologies of both the parties. R.W. 83 is the respondent herself. R.W. 86 is another person who attended the meeting on 18th January 1955. Both of them denied that R.W. 44 made any personal attacks against the petitioner in the meeting. This is all the evidence that we have on both sides as regards this meeting held at Penumantra. Let us now examine how far the allegations made by the petitioner are true and how far they are attracted by the provisions of section 123(5) of the Act. At the outset it must be mentioned that neither in the main petition nor in the list of particulars were the full details given of this meeting. Excepting a bald allegation that the respondent's agents carried on the above propaganda, it was not stated as to the time, date or the place at which this meeting was held or the actual words used at these meetings. This allegation, therefore, suffers from this one fundamental defect. Petitioner's advocate relies very much upon the newspaper report Ex. A80. Under section 60 of the Evidence Act, oral evidence must be direct and if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it. Under section 81 of the same Act, there is a presumption that a Newspaper is a genuine document but this presumption extends only to the genuineness of the specimen of newspaper actually produced but the paper by itself is not proof of its contents. There must be independent proof of its contents by the person who recorded the statement or who heard it. It has been held in *A.I.R. 1932 Lahore, page 7 (Jagan Nath V. Emperor)* as follows:—

"A witness who professes to prove something spoken by another is expected to repeat in the witness-box what the latter had actually stated. He can of course refresh his memory by referring to any writing made or any notes taken by him at the time when the speech was made. He can also use such writing or note to corroborate his oral testimony. In some cases it is open to a witness merely to refer to document and to say that it contains a correct statement of what happened in his presence but in that case he must depose that he is unable to state from memory what happened as, owing to a lapse of time and other circumstances he has forgotten it and further that he correctly recorded in the document what he had heard or witnessed. In such cases that document itself becomes primary evidence in the case."

Sections 159 and 160 of the Evidence Act also deal with the same matter. In the present case, P.W. 45 who sent the report to the Andhra Prabha has not deposed in the witness box as to what he actually heard at the meeting. He simply filed Ex A80 as a copy of the report which he had sent to the Newspaper. He admits that he had prepared actual notes as and when he heard the speech at the meeting, that he went home and prepared a complete report of it and sent the same to the Editor of the paper. Neither the notes prepared by him nor the actual report sent to the press has been filed in this case. He further admits that Ex A80 is only a truncated report of what he had sent to the press and many portions of his report have been omitted in a disconnected manner. So Ex A80 can not be said to be an admissible document in proof of the contents mentioned therein. P.W. 45 admits that Ex A80(a) refers to the Communist party as a whole and it was not said in personal reference to the petitioner. He also admits that the quotation-marks put in the Newspaper report were not put in the report sent by him and that they might have been introduced by the Editor of the Newspaper. Hence much reliance cannot be placed upon Ex A80.

44 Ex A112 is a report in the Andhra Patrika. No witness has been examined to prove this report. Neither the notes taken at the meeting nor the report sent by the reporter has been filed in this case. It has been held in several cases that a Newspaper report amounts only to an anonymous statement and is not proof of its contents therein unless oral evidence has been led in the proof of the contents thereof. Even otherwise, this document appears to be innocuous. The passage relied on therein by the petitioner is that Sri Alluri Satyanarayana Raju narrated the past history of the petitioner. This does not mean that anything bad against the petitioner personally and as regards his private character was said at the meeting. R.Ws 44 and 46 say that nothing was said against the petitioner personally.

45 This speech at the meeting by R.W. 44 can conveniently be divided into two parts, one dealing with Prohibition and the other dealing with dacoities and murders. The petitioner's case is that R.W. 44 said at the meeting that though himself and his wife and children do not drink, yet, he would encourage other people to drink and that this aspersion against him is a slur on his personal character. Petitioner and the respondent belong to two opposite political parties. There is no doubt that the Communist party was not for absolute Prohibition. As stated by R.W. 44, the Congress Government failed on this issue as the Communists helped by the other opposition groups passed a resolution for the implementation of the Ramamurthi Committee's report.

46 Ex B8 is the printed report of the Ramamurthi Committee. Its recommendations are contained in page 96 of that report. A perusal of the recommendations would show that toddy and attack shops should again be reopened and that attack may be supplied on certain permits issued on a ration basis. It is evident that this report is not for absolute Prohibition though it does not scrap the entire Prohibition policy of the Government. It was on this policy that both parties went to polls in 1955. One of the issues therein was whether the Ramamurthi Committee Report should be implemented or not. It was in that connection that R.W. 44 was referring to the prohibition policy of the Communists. What he stated was merely an expression of his opinion as regards the political conduct and behaviour of the petitioner if he were elected to the Legislature. P.W. 29 says that what was said against the petitioner was that if he was elected to the Legislature he would encourage drinking. The words used in Ex A80(b) also lead to the same inference. The speech of R.W. 44 must therefore be considered in the context in which it has been delivered and there is no doubt that he was only referring to the policy of the Communist party on Prohibition and the public conduct of the petitioner if he were elected to the legislature. Further, it is doubtful whether even otherwise it is an attack on the personal character of an individual merely because he asked other people to drink. There is no moral turpitude involved in this and the personal integrity of a candidate cannot be affected even if he had uttered such words.

47 The second part deals with the murders and dacoities. Here again a perusal of Ex A80(a) would show that what was being referred to in the speech was not to the petitioner in particular but to the Communists in general. R.W. 44 has explained in his evidence what he meant by the speech. A perusal of Ex A80(a) also leads to the same inference. Ex A80(a) is couched in plural language which evidently refers to the Communists in general and not singularly to the petitioner. According to R.W. 44 the Communist party was wedded to the creed of violence as opposed to the policy of non violence of the Congress. In pursuance of the creed of violence the Communists have committed a number of atrocities in several places according to this witness. We are not now concerned with the truth or otherwise of this allegation. There is no doubt that there is a general belief in the Congress party that the Communists at one time, though not at present, were following a policy of violence for fulfilment of their aims. At any rate they had some reasonable ground to believe that the Communists were following a policy of violence. R.W. 44 was referring only to that creed in his speech and was appealing to the voters to choose the candidate set up by the Congress which is following a policy of non violence as

opposed to the creed of violence followed by the Communist party. There is also no evidence to show that any person who heard the speech at the meeting was affected by it and that as a result of it he became adverse to the petitioner. There is, therefore, no doubt that the speech at Penumantra was not directed against the personal character and conduct of the petitioner.

48. *Alamuru*—It is alleged by the petitioner that three meetings were held at Alamuru in connection with the Congress election campaign of the respondent and that at those meetings the speakers vilified the petitioner by stating that he committed dacoity at Kanchumarru and cause grievous hurt and murder at Valamaru and Achanta Vemavaram. It is also alleged that the speakers said that the petitioner encourages people to drink if he were elected to the Assembly. P.W. 29 (Gottumukkala Chinnu Narasimharaju) speaks of one of those meetings held in the *pandal* of the Village Munsif of that village about 15 days prior to the polling. He says that Chadalavada Pichayya and Parakala Seshavatharam (R.W. 91) addressed the meeting on the above lines. He worked as the polling agent for the petitioner at Alamuru. He is not able to give the date of the meeting. No pamphlets were issued announcing this meeting. He further says he told the petitioner about this meeting two days thereafter. P.W. 38 (Sattu Krishnareddi) speaks of the two other meetings. He deposed that he attended personally both of them. The first was held in the first week of January and the second, about 10 days later. R.W. 20, Adabala Veeraswami Raja (R.W. 67) and the respondent attended this meeting. It was held near the neem tree in the village. Adabala Veeraswami Raja said that the petitioner commits dacoities, murders and that out of the booty of the dacoities he was running his election campaign. Respondent talked next and said that R.W. 67 had told about the petitioner and that if he is elected to the Assembly he will do more acts of that type. He also said that he encourages the labourers to drink. R.W. 20 (Nadimpalli Thirupathiraju) spoke next and he said that Datla gets paddy heaps burnt and that the Communist party are the agents of Russia and they have sold themselves out to Russia.

49. The second meeting was held near the house of Penumetcha Peda Satyanarayana Raju. It was addressed by Shri Alluri Satyanarayanaraju (R.W. 44) and Rajeswara Rao. They also vilified the petitioner in the above manner. This witness (P.W. 38) is one of the members of the Communist party since 10 years. He is the sole agent of the "*Visala Andhra*", the Communist organ. He says that he told the Taluk Organiser of the Communist party about what had occurred at the meeting on 6th January 1955 two days later. He does not know if a counter pamphlet was issued by the petitioner or anything was written in "*Visala Andhra*" repudiating the attacks made on the petitioner. He admits that the speakers told generally about the violence of the Communist party and also about the Prohibition policy of the Government. He further says that R.W. 20 said that the Communists have burnt paddy heaps in Krishna district and murdered in West Godavari district. Ex. A105 is a pamphlet giving the tour programme of some of the Congress leaders during the election campaign. It was noted in this pamphlet that on 6th January 1955 there would be a meeting at Alamuru. R.W. 20 deposed that there was a meeting at Alamuru about 4 months prior to the filing of the nominations and that Chadalavada Pichayya addressed that meeting. That meeting was arranged to propagate the Congress cult. It had nothing to do with the elections. Thereafter, Pichayya did not address any meeting at all at Alamuru. He denied that neither Pichayya nor Seshavatharam addressed any meeting at Alamuru in connection with the election campaign of the respondent. He admits that some meetings were arranged at Alamuru in front of the house of Penumatcha Peda Satyanarayanaraju subsequent to 6th January 1955 but that Shri Alluri Satyanarayanaraju did not address any meeting at that village. He denies having said at any of the meetings anything personally about the petitioner. He was only talking about the policies of the Communist and the Congress parties in reference to policy of Prohibition and the creed of violence adopted by the Communist party. R.W. 44 denied that he ever addressed any meeting at Alamuru.

49(a). Adabala Veeraswamy Raja (R.W. 67) stated that he addressed an election meeting at Aravalli in the Attili constituency during the elections. He also addressed a meeting at Alamuru 4 or 5 months prior to the elections. It is not true that he addressed any meeting at Alamuru during the elections and he denies having vilified the petitioner personally at any meeting. R.W. 91 is Parakala Seshavatharam. He is a member of the A.P.C.C. He deposed that he never addressed any meeting at Alamuru during the last general elections. Himself, Chadalavada Pichayya and R.W. 20 addressed a meeting there six months prior to the elections. He never made any personal attack against anybody. He says he did not work in the Attili constituency at all during the elections. He confined his work to Narasapur and Palacole constituencies. R.W. 83, the respondent, also denies all these allegations.

50. It has not been mentioned in the list of particulars given by the petitioner that these three meetings were held at Alamuru and that at those meetings the petitioner had been maligning in the manner stated above by the persons now alleged to have made these objectionable speeches. In the absence of this important particular it is very difficult to attach much importance to the evidence of the P.Ws. The P.Ws. stated that within two

days after these meetings they reported the matter to the petitioner as well as the Taluk Organiser of the Communist party. If so, these details would have found a place in the list of particulars. No counter pamphlets have also been issued by the petitioner denying the allegations, if any, made against his personal conduct and character. No disinterested or independent witness has been examined to show that he has attended any of these meetings and heard these objectionable speeches. The P.Ws. are deeply interested in the petitioner. Some of the persons who are alleged to have made the speeches were examined by the respondent and they have denied the allegations made against them. We, therefore, hold that the petitioner's character and conduct were not, in any way, vilified in any of the meetings at Alamuru.

51. *Varighedu*.—P.W. 22 deposed that two meetings were held at Varighedu prior to the election and that in the second meeting the respondent said that the petitioner is advocating people to drink and that he is in favour of toddy shops. He also says that one *panchama* M.L.A., whom he names as Sri Namburi Srinivasarao in the course of his cross-examination also addressed that meeting and said that the petitioner conducted a raid at Kanchumarru and murdered some persons, that he also beat some people at Valamaru and committed dacoity in Vemavaram. Some of the persons present at the meeting asked the respondent whether she can substantiate these allegations and the respondent said she was not bound to reply. This witness is a *settibaliya*, and is the President of the District Tappers' Association. Petitioner is the President of the Provincial Tappers' Association, of which this District Association is a subsidiary body. He was a staunch worker for the petitioner in these elections. He has got much grievance against the respondent for an alleged removal of a brick kiln which he says he had put in the village site of Varighedu. Ex. A79 is a public copy of a petition submitted by him to the District Collector complaining about the removal of his brick-kiln. He admits that the incident in the meeting was not written in Ex. A79. He says that he did not tell the petitioner about the name of Shri Namburi Srinivasarao the M.L.A. even till the date of his deposition before this Tribunal. Petitioner has not examined any other witness regarding this meeting. The evidence of this witness is highly biased. No other independent witness has been examined. None of the villagers of Varighedu who had attended that meeting was examined.

52. R.W. 83 the respondent denies that any meeting was at all held at Varighedu and neither she nor Sri Namburi Srinivasarao addressed any meeting in that village. Sri Namburi Srinivasarao is examined as R.W. 66. He is now the sitting M.L.A. for Tadepalligudem constituency. He says that he visited Varighedu along with the respondent in January 1955 in connection with the election campaign but that no meeting was held at that village and that he did not address any meeting vilifying the petitioner. There is no reason to disbelieve the evidence of R.W. 83 and R.W. 66 in the absence of any disinterested evidence on behalf of the petitioner. We hold that the petitioner was not maligned at any meeting in Varighedu. It may be noted that the details of this meeting also were not mentioned in the list of particulars given by the petitioner.

53. *Attili*.—It is alleged that Sri Alluri Satyanarayana Raju and Sri N. Sanjivareddi addressed a meeting at Attili wherein Sri Satyanarayanaraju said that the petitioner under his leadership got dacoities committed at Kanchumarru, Valamaru and Nadipudi villages. P.W. 1 is the only witness that speaks about it. He is the Chief Organiser of the Communist Party and a staunch worker for the petitioner. He admits in his cross-examination that hand bills were issued for this meeting showing the names of the speakers, that he is a correspondent of "Visalandhra" and that he sent a report of this meeting to that paper. Neither the newspaper nor the report sent by him has been filed in this case. No other villager has been examined to show what had happened at this meeting. R.W. 44 admits that he addressed a meeting at Attili but denies that any personal allegations against the petitioner were made by him. P.W. 1 is an omnibus witness referring to practically all the corrupt practices alleged by the petitioner. We feel it unsafe to accept his biased evidence. We hold that the petitioner was not maligned at any meeting held at Attili.

54. (2) *Mikes*.—P.W. 25 deposed that volunteers on behalf of the respondent used to go in cars equipped with mikes and carry on the vilification against him on the lines stated above. On seeing him they would deliberately stop the car and start maligning him. At Attili they sang as follows:—

"Kanchumarru munasabu illu doachaadu
Vaalamuru munasabu kaalu narikaadu."

And they also talked through the mike as follows:—

"Mana killalo dopididaarlaku Daatla-ye naayakudu. Kuddu thraagamdani desam-anthaa prchaaramchesthunnaadu"—etc.

This was 8 or 10 days prior to the election. At Penumantra the respondent's van stopped in front of his house and the persons inside the van sang:—

"Ammanna Raja gaari caaru vaddadu. Kanchumarru munasabu gaaru kodali gazulanu Daatla swayamu gaa vooda disaadu. Transka loni pillanu vooda-disi paarave-saadu."

He further stated in cross-examination that the songs which he heard in the bus-stand at Attili and in front of his house at Penumantra were on different dates with an interval of 4 or 5 days and that the van used on both the occasions was the same. He does not know the names of either the owner or the driver of the van or its number. He did not ascertain the details even later. He does not know the names of persons who sang from inside the van. He did not make any report to the police that he was being unjustly maligned. He did not make a note anywhere of the text of the songs. Nor did he mention this in the list of particulars filed by him. No other witness for the petitioner spoke about this mike propaganda. If really propaganda went on, with such publicity through mikes, it is not difficult for the petitioner to get any independent witness or witnesses either at Attili or at Penumantra to speak about it. Except the *ipse dixit* of the petitioner there is no other evidence. It is not safe to accept the evidence of the petitioner on this point. We, therefore, hold that no such propaganda through mike was carried on against the petitioner.

55. (3) *Posters*.—Exs. A2 to A4 are three wall posters which are alleged to have been used by the respondent maligning the personal character of the petitioner. Ex. A2 is styled as “Kandumarlu lo communistulu himsaa kaanda.” It is shown therein one person having the emblem of the Communist party stabbing with a knife a woman with a baby in her arms. Ex. A3 is another poster styled as “Vaalamarru lo Ardharathri communistula ghora dhantham.”

Therein it is shown a number of Communists armed with knives and sticks causing violence to a person. The third poster Ex. A4 is styled as “Achanta vernavarnam lo communistulu, chaita Subharayudu giri daaruna hathaa-kaanda.”

In this poster, it is shown that one person is being very badly mauled with deadly weapons by a number of Communists. All these posters only show the creed of violence that was being pursued by the Communists in general. *Ex facie* the posters do not show any reference to the petitioner; but it is alleged by some of the P.Ws. that the person marked with the arrow mark in these exhibits has reference to the petitioner as there is some resemblance between him and that figure in the posters. If we compare the three posters, we do not find any resemblance at all between the petitioner on the one hand and any of the arrow marked figures in these posters on the other. Some of the P.Ws. say that the petitioner's left hand is a little short and in has got a peculiar gait and that is why the arrow marked figure can be said to correspond to the petitioner. But, if we closely see to the arrow marked figures in these exhibits, the left hand in one is much longer than the left hand in the other and the left hand in one does not resemble the left hand in the other.

55(a). P.W. 61 stated in his evidence that in one of the paintings which is a reproduction of these posters, the name of the petitioner has been noted and that but for that name it would not be possible to identify the petitioner. He does not state on which wall this painting was done. If really such a painting was available a photo of it would have been taken as in the case of Exs. A91 to A104. No other witness speaks about this. He admits that the posters refer to the Communist party alone and not to the petitioner in particular. Exs. A94 to A104 are said to be the photographs of some paintings on the walls during the election campaign. A perusal of them would show that they all portray the creed of violence that is alleged to have been adopted by the Communist party in general. None of these photos bears the name of the petitioner. Nor do they have any reference to the petitioner in particular. Some of these are in fact the photographs of Exs. A2 to A4.

56. P.W. 1 stated that the person shown under the arrow mark in Exs. A2 to A4 resembles the petitioner. P.W. 25 admitted in cross-examination that he could not say whether the arrow marked figure resembled his, and in the next breath, he again said that there is some resemblance and that the position of his left hand would normally be in the position as shown in these posters and photos. He further says, he cannot say whether the face resembles that of his. P.W. 38 deposes that the petitioner was shown in the posters and paintings as stabbing a woman with a dagger, and he says that it is from the position of his hand and the bushy eyebrow and the prominent nose that he can recognise that figure to be that of the petitioner. He cannot identify any other figure in the painting. P.W. 72 (Sivangula Sambamurthy) also says that paintings were made on the walls portraying the petitioner as stabbing certain person.

57. R.W. 80 (Addepalli Satyanarayanamurthy) is the sitting M.L.A. of the Palacole constituency. He deposed that he got wall posters like Exs. A2 to A4 printed in connection with his election campaign at the Litho Press called “Venkateswara Litho Works, Palacole”, that the figures therein do not refer to any particular individual and that they refer only to the Communist party as a whole. He gave instructions to his workers to supply these posters to other constituencies also and they were so supplied. His rival in the elections in 1955 at Palacole constituency was a Communist candidate. In all the constituencies in the West Godavari district, a Communist candidate was competing with the Congress candidate. These posters were supplied to Attili constituency also.

58 RW 44 (Sri Alluri Satyanarayanaraju) deposed that he knew the petitioner from a very long time and that he does not find any resemblance between the petitioner and the arrow marked figure in either of Ex A2 or A3 or A4. He further says he has not seen these posters at any place in the course of his election tour. The respondent, RW 83, deposed that she saw the posters, Exs A2 to A4, pasted on the walls that she does not know who pasted them and that someone brought these posters from RW 80 and pasted them on the walls. She further said, these posters do not refer to any particular individual much less to the petitioner and that no figure in these posters resembles the petitioner. Such posters were also seen in other constituencies in West Godavari district. In West Godavari there are 14 constituencies and the members returned were 16. It is therefore clear from the evidence that these posters only reveal a particular policy of the Communist party and they do not in any way relate to the acts of the petitioner. We, therefore, hold that neither the posters nor the paintings on the walls have anything to do with the private and personal character and conduct of the petitioner.

59 (4) *Pamphlets*—Ex A1 is a pamphlet issued by the Huzur Nagar Taluk Congress in the Telangana State styled as 'Maanavathwaanni mantra kalipi communistula Raakshasa Krithyaalu'. It bears no date. It mentions several violent deeds of the Communists from 1948 to 1951 in some of the taluks in the Hyderabad State. This pamphlet has absolutely no reference to the petitioner or to the 1955 elections at all. It may be noted that in 1955 there were no elections in the Telangana area. Evidently these pamphlets were printed for use in the 1952 elections in the Hyderabad State. It is admitted by RW 20 that these pamphlets were seen by him distributed in the Tanuku constituency in 1955 elections.

60 Ex A5 is another pamphlet issued by the "Athli Pattana Congress Samgham". It contains a questionnaire addressed to the Communist leaders. All these questions relate to the policies of the Communist party and have no reference to the petitioner in particular. Exs A81 to A92 are pamphlets dealing with the policies of the party and there is no reference to the petitioner at all in question. None of these pamphlets can therefore be said to have in any way maligned the personal character or conduct of the petitioner. Schedule VIII gives a list of circulars, placards and posters issued by the respondent and which do not bear on their face the name and address of the printer and publisher. Of the several pamphlets mentioned above, Ex A1 alone is mentioned and the others do not find a place in schedule VIII. Further, the purpose with which Ex A1 was mentioned in schedule VIII was to show that it does not contain the name of the printer and publisher, which comes under another minor corrupt practice. It is not the case of the petitioner in the petition that Ex A1 had maligned his personal conduct or character. We, therefore, hold that the pamphlets have not, in any way, vilified the petitioner personally.

61 On 15th February 1955 there was a cycle procession on behalf of the Communist party which went round the whole constituency. On the same day, there was the bulls' procession at Relangi organised by the Congress party. Both these processions met in the centre of the Relangi village and there was a clash. The petitioner's party alleged that the respondent's agents came armed with sticks, stopped the procession and beat the petitioner's men. Respondent's party alleged that it was the petitioner's men that took the law into their hands and caused injuries to the workers on behalf of the Congress party. Police came within an hour of the occurrence and investigated into the matter. They filed charge sheets against both the parties under affray. This incident by itself does not refer to any corrupt practice coming under any of the provisions of the Representation of the People Act, and the petitioner has not alleged this as an instance of corrupt practice in his petition. In fact, he has not referred to this incident at all either in the petition or in the list of particulars. Though this incident had really no bearing on the issues framed in the case, yet, as the petitioner lead some evidence about it, the respondent examined RW 20 about what had occurred on that day. RW 20 threw the blame on the Communist party and he has also filed a document, Ex B7. It is a pamphlet published on behalf of the "-----", of Athli constituency wherein it was stated that at 4 P.M. on 15th February 1955 when the respondent's bulls' procession was going through the Relangi village the cycle rally of the Communist party also came to that village and that the petitioner has threatened the people in the bulls' procession with a stick. Some of the elders in the village who attempted to prevent these violent acts received severe injuries. Immediately there was a big meeting denouncing the acts of the Communist Party. This document Ex B7 was filed to disprove the contention of the petitioner that the Congress party were the aggressors and to show that immediately after the occurrence the Congress party issued a pamphlet stating what all had occurred on 15th February 1955. The petitioner now wants to take advantage of Ex B7 and level a fresh accusation against the respondent saying that by virtue of Ex B7 his personal conduct and character had been maligned because it was mentioned in Ex B7 that he personally threatened with a stick the people who are in the respondent's procession. As we have stated above, this charge was not levelled originally against the respondent. It was by way of rebuttal of an accusation which after all is not relevant for this enquiry.

that Ex. B7 was filed. Petitioner cannot take advantage of a document filed in the course of the defence evidence and then build up a fresh case now against the respondent. He has filed I.A. No. 63 of 1957 seeking to amend his list of particulars by adding the following at the end of para 60:

"with the intention of prejudicing the prospects of the petitioner's election, the respondent and her men made and published on the eve of the election, statements to the effect that the petitioner was guilty of violence against the respondent's men and others at Relangi, on the occasion of the cycle rally held in the constituency on behalf of the petitioner some time prior to the election. These statements touching the personal conduct of the petitioner which the respondent and her men knew to be false were calculated to prejudice the prospects of the petitioner's election."

The respondent has vehemently opposed this petition. This petition was filed on 2nd December 1957. The evidence of both parties was closed on 12th November 1957 and arguments were being heard from that time. It was after the arguments were heard for 5 or 6 days that the petitioner filed this amendment petition. On account of this inordinate delay alone the petition has to be dismissed.

62. Further, the petitioner cannot build up a case on the defence evidence let in. He must definitely plead the charge levelled by him against the respondent and prove the same by his own positive evidence. If he wants to plead that no violence was attempted to be used by him on 15th February 1955 he must let in positive evidence about it. He must also show that the allegation in Ex. B7 is false and false to the knowledge of the respondent. The respondent also may show that the recitals in Ex. B7 are true. Further, even if the recitals in Ex. B7 are not quite true, they do not in any way injure the personal character and conduct of the petitioner. Such clashes as these in election campaigns are not uncommon and in the heat of the moment, the party people will exhibit some show of violence. But that does not in any way injure the personal character of the individuals. Nor can it be said that it would reasonably be calculated to injure the prospects of his election. In fact, no witness has stated that on account of this allegation in Ex. B7 his estimate of the petitioner was lowered and that he thereby did not support his candidature. Even if the amendment were to be allowed we find that the petitioner is in no way vilified. But we hold that the petition is a very belated one and that the petitioner cannot build up a case from the defence evidence and ask for an amendment now. It is a fundamental principle of law that proof should not be in conflict with the pleadings in the case and that any amount of evidence let in on a plea not taken cannot be considered. For these reasons, we dismiss I.A. No. 63 of 1957. We therefore hold issue 11 against the petitioner.

63. *Issue 8.*—This corrupt practice comes under section 123(2) of the Act, the relevant provisions of which are as follows:—

"(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right;

Provided that—

- (a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—
- (i) threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;"

The definition of this corrupt practice is very wide. Any sort of interference whether direct or indirect or any attempt at such interference with the free exercise of an electoral right is hit by this provision. There must of course be an element of compulsion in the act done, whether it is physical or mental. It is the abuse of influence that constitutes this corrupt practice. Mere exercise of legitimate influence by a leader of a party or by anyone who holds a particular position in society is not objectionable. Facts constituting undue influence must specifically be alleged in the petition and in the list of particulars. Intimidation will also come under the category of undue influence but this intimidation must be practised upon specific persons who are affected by the intimidation. The names of the specific individuals upon whom this intimidation has been practised must also be given in the list of particulars. If forcible abduction or duress is proved, it also amounts to undue influence. Unlike in the case of impersonation, general undue influence would also vitiate the election. But such undue influence must be of such a character and so

general and extensive in its operation that it cannot be said that the polling was a fair representation of the opinion of the constituency. It must also be alleged and proved that the candidate or his agent for whom he is responsible has committed this corrupt practice.

64. Paragraphs 15 to 25 in the list of particulars deal with this corrupt practice. It is the case of the petitioner that the landlords in the constituency exercised undue influence and also intimidated the economically backward sections of the community not to vote to the petitioner. They threatened the tenants with eviction, their farm-servants with dismissal from service and the coolies with boycott and non employment, unless they worked and voted for the respondent. Such coercion is said to have taken place at Attli, Penumantra and Relangi as per para 16 of the list of particulars. It is also alleged that one Binkam Venkanna in Eduru village who was occupying a *banyar* land was threatened with immediate eviction. In Varighedu, the brick kiln of one *Settibaliya* by name Venkanna was occupied in order to compel him not to support the petitioner. It is further averred that many Harijans, *Settibaliyas*, and other backward people were prevented from coming to the polling stations and voting on the election day by use of physical force. This fact was brought to the notice of the police by the petitioner's agents orally in some cases and by filing petitions in some other cases. It is alleged that the District Superintendent of Police was also informed of this and that no prompt action was taken by them. Though Attli, Penumantra and Relangi were the three villages mentioned in the petition as the places where undue influence and intimidation were resorted to, yet, evidence was let in of instances in two more villages, viz., Varighedu and Alamuru. In view of the fact that instances at Varighedu and Alamuru were not mentioned either in the petition or in the list of particulars, they have to be struck out. Yet, we have considered below the evidence relating to these instances also, by way of abundant caution.

65. (a) *Attli*.—It is alleged by P.W. 1 that the harijans, and *Settibaliyas* at Attli were prevented to vote on the polling day on account of the pressure brought upon them by the members of the *Varthaka Sangham* of that village. The members of the *Sangham* collected these people in their back-yards, confined them and prevented them from going to the polling booths. Kusumpudi Ramakrishna is alleged to be one of those persons in whose back yard the voters were confined. P.W. 1 further says that they were threatened that their lands would be taken away if they voted for the petitioner. This intimidation was also brought to the notice of the police at Attli by one Mr. Kapardi. The police came to the polling booths and went away. A written complaint was also said to have been given by one Satti Satyam, to the police when he was assaulted in that connection. This occurrence was immediately brought to the notice of the petitioner also. P.W. 1 is not able to give the names of any of the voters who were threatened not to vote. P.W. 76 (Kusumpudi Musalayya) is a trader in onions and chillies at Attli. He deposed that he is himself a voter but that he did not exercise his franchise since Mekala Viranna who is a close relation of his asked him to work for the Congress about 5 or 6 days prior to the polling day and that he refused to do so. This Viranna is alleged to have prevented him on the polling day to go to the polling booth for fear that he might vote to the Communist candidate. He sat with Viranna till 4 p.m. and went home subsequently without voting. Ex. A113 (b), is his unmarked vote in the marked electoral roll.

66. In cross-examination, P.W. 76 admitted that in the Panchayat Board elections in 1953 he was supported by the Communist party as against one Vytla Jagannadham, brother's son of Pallayya and that he was defeated in that election. He admits that on the polling day, Mekala Viranna was at the village chavadi polling booth while he was at the Girls' School polling booth. He admits that he told this fact to P.W. 1 who was the chief organiser of the petitioner's party about a week after the election. But very curiously this specific instance has not been mentioned in the list of particulars. If it were true, it should certainly have found a place in the list of particulars. He states that the reason why he was suspected by Mekala Viranna was that he refused to contribute any money to the *Varthaka Sangham* to meet the election expenses of the respondent. Respondent disputes that he was a trader at all. He does not pay any profession tax or sales tax. He does not produce even receipts for payment of even market dues which would generally be collected if he exposed his goods for sale in shandies. There is no evidence in writing to show that this witness was at all a trader and has anything to do with the *Varthaka Sangham*. P.W. 88 (Carnipudi Suryarao) deposed that on the polling day 20 voters of *settibaliya* community were confined in the backyard of K. Ramakrishna with a view to prevent them from casting their votes. This witness asked Ramakrishna to release them for voting but he refused to do so. This was at 9-30 A.M. Petitioner came to Attli that day at 10-30 A.M. and he was told about this. The petitioner then pleaded before Ramakrishna to release the voters but that the latter did not do so. Petitioner brought these facts to the notice of the police immediately and by the time the police came, Ramakrishna sent away the voters in small motor cars.

67. This witness further deposed that at Mattapaithi Garuvu which is a hamlet of Attli, Vytla Pattabhiramayya and Javvadi Peda Abbayl prevented about 100 Harijan voters from voting by confining them in a yard. Himself, the petitioner and one Kapardi protested against this. This witness is a worker of the Communist party. He admits in his cross-examination that he cannot give the names of any of the voters who have

been confined either by Ramakrishna or by Vytla Pattabhuamayya that Ramakrishna's yard is about 20 yards from the polling station that there was police *bandobust* at that place and that there were none else when he questioned Pattabhuamayya about these things

68 RW 47 is Mckala Viranna. He deposed that PW 76 is a relation of his, that he worked for the Communists in the last elections that he is not a merchant doing any business and that it is not true that he ever asked him to work for the Congress. He denied that he ever restricted the movements of PW 76 on the polling day. This witness did not also work for any party in the elections. PW 76 is also the polling agent for the petitioner, *vide* Ex B22

68(a) RW 74 is Kusumpudi Ramakrishna. He deposed that he never intimidated any tenant, farm servant or ryot to vote for the respondent. He worked for the respondent as a polling agent at Attili in the female booth wards 14 to 18. He did not do any propaganda for the respondent. He denies that he ever confined or detained any voter in his backyard or that he ever beat anyone by name Satti Satyam.

69 PW 69 (Mattaparthu Venkanna) deposed that Vytla Pattabhuamayya and Javvadi Peda Abbayi prevented about 50 voters from exercising their franchise on the polling day and that subsequently when the police came, the voters made themselves scarce. He is not able to give the names of the police officers who had come to the spot.

70 This is all the evidence so far as the intimidation and undue influence at Attili are concerned. In the list of particulars nothing was mentioned about the incident at Mattaparthu Garuvu which is an independent hamlet of Attili. The names of Vytla Pattabhuamayya or Javvadi Peda Abbayi were also not mentioned therein. Even in the instance relating to Kusumpudi Ramakrishna, the place at which the voters were confined or the time and the day on which they were intimidated was not mentioned. It is alleged that written reports had been given to the police by Satti Satyam and one Mr Kapadi. These reports have not been summoned for or filed. None of the police officers has been examined in the case. The names of persons who have actually been prevented from voting have not been given in the list of particulars. Nor have they been examined except PW 76. We are not convinced with the evidence of PW 76 for the reasons stated above by us. RW 17 denies the version of PW 76. RW 74 also denies that he ever confined anybody in his backyard. We accept the evidence of RWs 17 and 74. We therefore hold that there was no intimidation of any voters at Attili.

71 (b) *Penumantra*—PW 25 is the petitioner. He states that on the election day at Juttukapakalu which is a hamlet of Penumantra about 140 or 150 voters were detained at Malapalli and prevented from voting. This was done by Kaldindi Venkataramajau (RW 86) of Penumantra and others. About 40 or 50 voters at Peda Malapalli were also similarly prevented. Sivangula Sambamurty (PW 72), one of the workers of the petitioner, told him about this and the latter went to the voters and appealed to them to come and vote but that they did not hear his words. Sambamurty filed a report before the Sub Inspector on election duty. But no action was taken. In cross-examination, he admitted that he did not personally see any voter being intimidated by anyone. Some voters told him about it whose names he is not able to give. He does not know even the names of any of the voters who were detained. He says that he made a report to the District Superintendent of Police about these occurrences. But he has not been examined. The evidence of PW 25 is hearsay. He is personally not aware of the occurrences.

72 PW 64 (Dwarampudi Nagreddi) stated that on the election day the voters at Peda Malapalli were prevented from going to the polling station by Datla Venkata Narasimharaju and Datla Rayaparaju, but that some of the voters escaped and went to the polling station. He was then sitting at a coffee hotel about 15 or 20 yards from Malapalli and could see what all was happening there. Petitioner and Sivangula Sambamurty asked him what the remedy was and he advised them to make a report to the police. A report was accordingly drafted by Sambamurty and then they both went away. He deposed that about 50 or 60 voters of Malapalli were prevented from going to the polling booth. He cannot give the names of any of the voters who were so prevented. The polling station is about 170 yards from the alleged place of obstruction. He did not remonstrate with the obstructors. It is suggested that this witness is a member of the Communist party and worked for the petitioner though he denies it. There can be no doubt that this witness is interested in the petitioner as, otherwise, there was no need for the Communist workers to consult him as to what action should be taken. It may be remembered that this is the very witness who went and told the petitioner about what was being said against him in the meeting wherein the petitioner is alleged to have been maligned by RW 44.

73 PW 72 (Sivangula Sambamurty) states that on the polling day voters were prevented from exercising their franchise, particularly those in Peda Malapalli and Malapalli of Juttukapakalu, hamlet of Penumantra. He saw all this from a coffee hotel nearby. P.W. 64

was also there. The petitioner came to them later and to the dictation of the petitioner a report was drafted and delivered to the Sub Inspector of Police on election duty. The Sub Inspector sent some police constables to clear up the obstruction. They came by about 3 p.m. but by that time neither the voters nor the objectors were there. He cannot say how many of them voted and how many did not. He cannot give the numbers of the police constables who arrived at the scene. P.W. 72 is a staunch worker for the Communist party and a close associate of the petitioner.

74 P.W. 72 is also the polling agent for the petitioner. If so he could not have been at Malappalli on the polling day. He is not able to give the names of any of the persons who have been detained.

75 R.W. 86 is Kalidindi Venkata Ramaraju. He deposed that he did not canvass for the respondent at all at the last general elections and that it is not true that either he or Ragu Sitharamayya or Datla Venkata Narasimharaju or Datta Ruyapalaraju intimidated or threatened tenants or firm servants saying that they would remove them from service if they did not vote for the Congress. The father-in-law of this witness and petitioner's father are grandsons of brothers and are thus closely related to each other. R.W. 86 further deposed that it is not true that any landlords in the village ever congregated in his house to work for the respondent or that he ever thought to influence the labour class voters or preventing them from voting. He only went to the polling station on the polling day to cast his vote and immediately returned back. He never went again to any polling station. He never acted as the polling agent of the respondent.

76 This is the evidence on both sides relating to the alleged intimidation at Penumantra. Here again no details or particulars have been given in the petition. It is alleged that the police came to the spot on a report given by Sivangula Simbamurthy. The report has not been filed and the police have not been examined. The P.Ws. examined are all very much biased in favour of the petitioner. No independent witness has been examined to prove this intimidation. No person alleged to have been intimidated has also been examined. We therefore are not convinced of the evidence of the side of the petitioner in proof of this allegation. We hold that there was no intimidation at Penumantra.

77 (c) *Relangi*.—P.W. 9 (Thatipaka Abraham) deposed that there are 400 odd voters in Bobbarajupalem village which is a hamlet of Relangi and that these voters were obstructed by the ryots of the village from exercising their franchise. While he and about 100 other persons were going to the polling booth on the election day, Gadraju, Tataraju, China Anjaneyaraju, Sirigineedi Satyam and Yerramsetti Satyam intimidated them not to vote by saying that they would terminate their services if they voted. About 80 persons went back to their houses without voting. He complained this to Gandham Satyam (P.W. 77) of the local Communist party. This witness is a worker of the Communist party and canvassed for the petitioner during the election campaign. He said that he told Gandham Satyam the names of persons who had obstructed them from going to the polling booths and that Satyam noted down those names also. He is not able to give the names of the voters who did not vote on account of this intimidation. Except to Satyam he did not lodge a complaint to any others.

78 P.W. 12 is Nakka Lazarus of Bobbarajupalem. He deposed that on the polling day at about 12 noon while about 100 voters including himself were going to the polling booth, Sirigineedi Satyam, Yerramsetti Satyam, Anjaneyaraju and others obstructed them at the railway bund and said,

“Meeru vedithe communistala tharaphuna vedathaaru meeru votu cheyavaddu. Intika valli pondi.”

In spite of these threats about 10 people went and the rest of them returned of whom this witness is one. At about 1 p.m. he went to the polling booth without being noticed by anyone and voted. He also deposed that about 10 or 15 days prior to the election, Thurupathiraju (R.W. 20) and about 10 others came to Bobbarajupalem and dissuaded the voters from voting to the petitioner and threatened that if they do not vote to the Congress they would remove them from their employment. Four days later, R.W. 20 promised this witness to secure for him a job in the Sugar factory at Tanuku of Harischandria Prasad (P.W. 18) who belongs to the Congress party, if this witness worked for the Congress in the election. He says that nobody was present when Thurupathiraju made this promise and that he did not tell this to anybody. In another connection with reference to the vote of Nakka Shanamma we discussed the evidence of this witness and disbelieved his evidence. The persons named by this witness as being the obstructors were not mentioned either in schedule VII or in the list of particulars except Sirigineedi Satyam. The details of this incident at Bobbarajupalem were also not mentioned in the list of particulars. We may state that the pleading regarding undue influence is very vague. We are not able to place much reliance upon the evidence of P.Ws. 9 and 12 and we hold that there is no proof that any intimidation or threats were used to any voter at Relangi. No independent witness has been examined in proof of the petitioner's case.

79. *Varighedu*.—P.W. 22 (Kadali China Venkanna) belongs to Varighedu. He deposed that there is a *Ramalayam* in his village built by *settibathas* and that in the vacant site south of it he raised a brick-kiln containing about 20,000 bricks and that 15 days prior to the election the Kapus in the village fenced it off with prickly-pear saying that they would remove the fence if the Communist flag in the village is removed. He did not do so. He also sent a petition, Ex. A79, to the District Collector complaining about the threats of the villagers. 20 days after he filed this petition one Gavva Ramanna filed a suit on a promissory note against Addala Venkata Ramana who fenced off the kiln and got the brick-kiln attached before judgment. This witness then filed a claim petition for the brick-kiln and the claim was allowed. Gavva Ramanna filed a suit to set aside the claim order, O.S. No. 407 of 1955, District Munsif's Court, Tanuku. The suit was dismissed. But, it is now pending appeal in the District Court, Eluru. This appears to be purely a personal litigation between himself and Gavva Ramanna. This Gavva Ramanna was not shown as one of the agents of the respondent in schedule VII. Nor was his name given in the list of particulars. It was not even spoken to in evidence that Gavva Ramanna worked as the agent of the respondent. The personal litigation between these two people appears to have been pressed into service by this witness to prove a case of undue influence as against the respondent. This witness is the polling agent for the petitioner. He is the President of the District Tappers' Association which is a subsidiary body to the Provincial Association, of which the petitioner is the President. It is unsafe to rely upon the interested testimony of this witness. We hold that there was no intimidation at this village.

80. *Alamuru*.—P.W. 38 belongs to Alamuru. He stated that there was intimidation of voters in his village by Alluri Ramalingaraju, Penumatcha Satyanarayanaraju, Uddagiri Suryanarayana and that while Badili Pallayya and his wife Suramma were coming to the polling station to give their votes, they were intimidated. Ramalingaraju was taking these people to the house of Peda Satyanarayanaraju. This witness then asked Pallayya why he was going without giving the vote, and this Pallayya told him that this Ramalingaraju has not allowed him to vote. He reported this matter to the police at the polling station but they did not enquire. This Pallayya or his wife was not examined in this case. This witness is deposing as to what Pallayya told him and not what he actually heard from the intimidators. The alleged intimidators were not mentioned in either schedule VII or the list of particulars. If this instance were true, he would certainly have mentioned it to the petitioner and it would have found a place in the list of particulars. This P.W. 38 is a staunch worker for the petitioner and is very much interested in him. He is one of the members of the Communist party for over 10 years and is also the agent to "Visalandhra", the Communist organ. It is not safe to rely on the interested testimony of this witness. We hold that there is no intimidation at Alamuru. It may also be noted that nothing was mentioned in the petition or the list of particulars that any intimidation was used against any voters in Alamuru village. This is all the evidence that we have on this issue. For the reasons stated above, we find this issue against the petitioner.

81. *Issue 9*.—It is alleged in the petition that in order to exercise coercive influence over the voters, the respondent's men enlisted the support of the Village Munsif of Relangi and the Village Karnam of Eduru. This is a corrupt practice coming under section 123(8) of the Act, which runs thus:—

"The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government or any State other than the giving of vote by such person.

Explanation.—For purposes of this clause—

- (b) a person serving under the Government of any State shall include a patwari, chaulikar, dafedar, zaildar, shanbagh, karnam, talati, talari, patil, village munsif, village headman, or any other village officer by whatever name he is called, employed in that State, whether the office he holds is a whole-time office or not, but shall not include any person (other than any such village officer as aforesaid) who has been declared by the State Government to be a person to whom the provisions of this clause shall not apply."

If, therefore, any Village Munsif or Village Karnam renders any assistance in furtherance of the prospects of any candidate, he is hit by this provision. Full and complete particulars must be given mentioning the name of the officer, the act done by him and the time and place at which the alleged act was said to have been committed.

82. (a) *Village Munsif of Relangi*.—In para 19 of the petition it was merely mentioned that the support of the Village Munsif of Relangi was enlisted by the respondent's men to exercise coercive influence over the voters. It is not stated therein, how, in what manner and against whom this Village Munsif had used his undue influence. On this ground alone this contention of the petitioner has to be negatived. But some details are sought to be

given in the evidence of PWs 13, 25 and 58. PW 13 (Pragada Subbarao) worked for the Communist party for about a month prior to the election. He deposed that the Village Munsif of Relangi and some other persons stated that they should all work for kapus and not Communists as otherwise, their prospects would be marred. This was about 20 days prior to the polling day. They also intimidated his father and threatened to beat them if they did not work for the respondent. His father advised him not to work for the petitioner but yet he did not heed his father's words. He is the polling agent for the petitioner in the 6th ward. It is said that one Mariseti Subbamma was present when the Village Munsif of Relangi and others coerced him to work for the Congress party. He did not tell this to anybody previously. He does not state what actually the Village Munsif of Relangi said to him or any other voter. There is a general allegation that he along with a number of persons threatened the voters. This is a very vague statement. No other voter has been examined to show that these threats have been used by the Village Munsif of Relangi against him. PW 25 also deposed that he is not personally aware of what was done by the Village Munsif of Relangi.

83 PW 58 (Pragada Viranna) deposed that Oduri Viranna the Village Munsif of Relangi came to him and asked him for his vote in favour of the respondent and also told him to persuade his son Subbarao (PW 13) not to work for the petitioner but to work for the respondent. His other son Swami is working for the respondent. When this witness told them that he had no control over PW 13, Srigincedi Satyam said in a threatening mood that he would see that his body was cremated. On the next day the Village Munsif of Relangi and Srigincedi Satyam sent for him to Veerabhadraswami temple. By that time he had already given his sister's house to the petitioner to run his election office. The Village Munsif of Relangi and Srigincedi Satyam asked him to get that office removed from his sister's house. He said he could not do so as he already promised the petitioner. The Village Munsif is then alleged to have said that he would tie his shoe round his neck. This witness replied that he would prefer the shoe round his neck rather than go back upon his word. This witness is the father of PW 13 who is a staunch worker for the petitioner in the elections. This witness had also given his sister's house for use of the petitioner in the election campaign. His evidence is highly interested. This incident if true would have found a place in the list of particulars given by the petitioner. As we observed above, no specific act is alleged as against the Village Munsif of Relangi.

84 Srigincedi Satyam has been examined as RW 49 and he deposed that he never did any propaganda work on behalf of the respondent in the last elections and that he merely accompanied the respondent to a few houses when she came to Relangi for purposes of canvassing. He denied that he ever asked PW 13 to work for the respondent or that he ever threatened to beat him. We therefore do not place much reliance on the interested testimony of PW 58.

85 PW 25 deposed that 2 or 3 days prior to the election when he went to Bobbarajupalem, hamlet of Relangi, he found the Village Munsif of Relangi and 5 or 6 others saying that Datla would not give them food if they were to give their votes to him. Even this allegation which is to the special knowledge of the petitioner was not mentioned in the petition. If really the Village Munsif of Relangi took part in respondent's election campaign the petitioner would have reported the matter immediately to the Revenue authorities especially when there is such a serious altercation between the Village Munsif and PW 58 as was deposed to by the latter. No such report has been sent. PW 25 does not also say that the Village Munsif in particular did any act. On a consideration of all this evidence, we find that the Village Munsif of Relangi has not rendered any assistance to the respondent in furtherance of her election.

86 *Kannam of Iduru*—PW 36, Bokka Subrahmanyam of Iduru, deposed that himself, his younger brother and one Korada Appalaswami were cultivating about Ac 0.59 cents of Government *banjar* lands since about 4 years prior to 1955, that some others also were cultivating the Government *banjar* lands in their vicinity, that K. Sudhapani the Kannam of Relangi asked them to vote for the Congress and threatened that if they did not do so, they would be evicted from the *banjar* lands. This was about 10 days prior to the polling. 4 or 5 days after this threat, the respondent the Kannam and some others came to the locality and again threatened that they would get into trouble if they did not vote for the Congress. On the polling day also the Kannam threatened to oust him from the *banjar* land as he was carrying the Communist party box with him. A month and 15 days after the polling he got a notice by post asking him to vacate the land he was cultivating. He was also penalised for the 2nd crop grown by him on the land. In cross examination, he admitted that he was getting similar notices of eviction even in previous years and that he is not aware if the other squatters on Government lands were also getting similar notices. In paragraph 18 of the list of particulars it was mentioned that one Binkam Venkanna was threatened with eviction of the Government *banjar* lands. PW 36 is not Binkam Venkanna but one Bokka Subrahmanyam. It is not suggested or even said in the course of arguments that Binkam Venkanna has anything to do with Bokka Subrahmanyam. Evidently the case referred to by P.W. 36 is different from that mentioned in paragraph 18 of the list of particulars. This

is a clearly new instance not adverted to in the petition. Nor was any amendment sought about it. On this view alone this evidence has to be shut out. Even on merits also we find that this is an ordinary case where the Government send out notices under the Land Encroachment Act for evicting squatters on Government waste lands. Evidently, P.W. 36 wants to press that into service to make out a case of undue influence against the respondent or the Karnam of Eduru. P.W. 25 says that he has no personal knowledge of the intimidation by the Village Karnam of Eduru. We, therefore, hold that the Village Karnam of Eduru did not render any assistance to the respondent. We find issue 9 against the petitioner.

87 Issue 10—This is a minor corrupt practice coming under section 124 (5) of the Act which reads thus—

“The systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of or appeal to religious and national symbols such as the national flag and the national emblem for the furtherance of the prospects of the candidate's election.”

What is essential under this provision is that there should be a systematic appeal to the voters and not a casual or a stray request to vote or refrain from voting on grounds of caste. It is the case of the petitioner as mentioned in the list of particulars that the respondent and her men who belonged to the Telaga caste, systematically appealed to the Telaga voters to vote for the respondent on account of her Telaga caste. It is said that they held separate meetings for Telagas exclusively and exhorted them to vote for respondent Gandham Satyanarayana of Relangi Sunkara Satheyya, Chikkala Venkata Rao of Polamoru, K. Subbaraju and Polisetty Apparao of Ballipadu and Koya Reddeyya of Nelamuru were named as the persons who made this systematic appeal. It is also alleged that the *Attili Varthaka Sangham* is composed mainly of Telagas and that they supported the respondent on grounds of her caste by even financing her in her election expenses. Addagarla Apparao, a Telaga teacher in Attili is alleged to have been dismissed from service for his not supporting the candidature of the respondent.

88 P.W. 1 deposed that in a meeting held at Attili, Javadi Lakshmayya of Penugonda appealed to the Kapu voters that they should vote for the respondent because she is a Kapu. He says in cross examination that he does not remember the date on which the said Mr. Lakshmayya addressed the meeting. As we have already observed, he is a staunch worker for the petitioner and a correspondent to “Visalandhra”. The report of this meeting was not sent to “Visalandhra”. Nor was it subjected to any criticism in the said organ.

89 R.W. 45 is Sri Javadi Lakshmayya. He is the sitting Councillor for the Penugonda constituency. He deposed that he did not address any meeting in Attili constituency and that it is not true that he appealed to the communal passions of the Kapus in support of the respondent's candidature. He denied that there was any such association as “District Kapu Sangham” in West Godavari district. He admits that there is one such “Provincial Sangham” at Guntur and that till 5 years ago he was the President of that Sangham. He is not now connected with that Sangham and is not even a member of it. There are no district branches for that Sangham. There is no other evidence relating to this appeal to the Kapus said to have been made at the Attili meeting. We prefer to accept the evidence of R.W. 45 to that of P.W. 1.

90 R.W. 60 (Polisetty Apparao) is a Kapu. He is a resident of Ballipadu. He deposed that in 1955 elections the Congress workers came to him two days prior to the elections and told him that he, being a Kapu, must work for the respondent and not for the Communists. He replied that he had been working for the Communists from a very long time and that it was not possible for him to change sides now and much more so when the appeal to him was made on grounds of caste. In cross examination, he said that he told this fact to the petitioner even on the next day. He has no relationship with any of the Congress workers who came and appealed to him. He admits that no pamphlets were issued by the Communist party protesting against the appeals to casteism made by the Congress workers. This witness was a polling agent at Ballipadu for the petitioner. None of the persons who are alleged to have made this appeal to casteism has been mentioned either in schedule VII or in the main body of the list of particulars. If, according to this witness, he informed the petitioner of this occurrence on the very next day on which it took place, petitioner would certainly have mentioned it as an instance in the list of particulars. No other independent witness have been examined to speak to this incident.

91 Respondent examined as R.W. 83 denied that she or her men ever made any systematic appeals to caste or community. We are not inclined to believe P.W. 60.

92 P.W. 77 (Gandham Satyanarayana Murthy) is a resident of Relangi. He worked for the Communist party in 1955 elections and in fact one of the close associates of the petitioner. He is a Kapu by caste. He deposed that about 15 days prior to the election the respondent met him at the election office of the Communist party, that he did not know her at all previously,

that there were then about 25 persons including R.W. 20 with the respondent, and that the respondent called him on to the road and told him in front of the Communist party office:

"Manamandaramu Kaapulamu. Attill mijoajaka vaigamulo ekkuvu mandi kaapulunnaaru Eluru vadilesi ikkadaku vacchesanu. Neeru kaapulai vundi, naaku vyathire-kamugaa pani cheyadameniti? 'Thappani sarigaa naaku pani cheyaali. Promise cheyaali."

He then told her that he was a sympathiser of the Communist party since 1916 and that it would not be proper for him to work for the respondent then. This was at about 9 a.m. At about 11 a.m. when this witness went home for food he found the respondent and others again at his house. By that time a Communist flag was flying on his house. His father lives in another house and a Congress flag was flying on his house. When this witness entered his house by the back-door he overheard the respondent saying to his wife:

"Abbayiki chinnavayassu. Erupu jenda raktapaathamu tho samaanamynadi. Chaalaa pramaalakaramu. Abbaayi tho cheppi theeyindhi veyya valasinadi. Votlu ela vesukunnaa sare."

On hearing these words he told the respondent that it was not proper for her to say anything about the flag. The respondent then went away. He admits in his cross-examination that the talk between him and the respondent was at a coffee hotel when there are other persons at hearing at distance. Respondent examined as R.W. 83 denied this incident as being absolutely false.

93. Respondent is a seasoned politician having been in the Legislative Assembly ever since 1937. It is incredible that even if she wanted to appeal to the caste of any voter to support her candidature she would have done so at a public place to the hearing of several people. If all this conversation had taken place as deposed to by P.W. 77, other independent witnesses who have heard the same ought to have been examined in support of the petitioner's case. No such evidence has been let in. Upon the uncorroborated testimony of P.W. 77, it is difficult to come to a conclusion that R.W. 83 really appealed to the communal passions of P.W. 77 in order to seek his support. R.W. 20 deposed that while himself and the respondent and some others were going out from door to door for purposes of canvassing, he found P.W. 77 in the street and that he introduced him as one of the active members of the Communist party at Relangi. The respondent never asked him to vote for her because she was a Kapu. It is true that the respondent went from door to door and made appeals to support the Congress in all houses including that of P.W. 77. In view of this evidence, we hold that there was no appeal to casteism to P.W. 77 by the respondent.

94. P.W. 88, a Telaga of Attili, deposes that Kusumpudi Ramakrishna is the President of the Kapu Sangham in Attili and that he canvassed votes for the respondent by appealing to the communal passion of the Kapu voters and that the said Ramakrishna asked him also to canvass on those lines. He does not know if the Kapu Sangham of Attili is a registered body. He is not a member of that Sangham. He did not attend any of the meetings of that Sangham. It was only a day prior to the election that Ramakrishna sought his aid. This witness had been working for the petitioner since about 15 days previously. This appeal to him by Ramakrishna was not reported to by this witness to the petitioner or anybody else. R.W. 74 is Kusumpudi Ramakrishna. He denied that he ever made any appeal on grounds of caste or community in favour of the respondent, that there is no Kapu Sangham at all at Attili and that he was not the President of any such Sangham. He worked only as a polling agent for the respondent but did not do any propaganda work. R.W. 83 also denied that there was any such canvassing at Attili. We, therefore, do not attach any weight to the evidence of P.W. 88.

95. P.W. 83, Aldagarla Apparao, is a teacher in Attili Aided Elementary School from 31st December 1953 to 31st March 1955. He deposes that Kanumilli Venkataramayya, Sirligineedi Satyam, Mekala Vianna, Maddala Tata and others came to Gummampadu, his native village which is about 2 miles from Attili and said to him:

"Ammanna Raja garu kaapu. Manamandaramu kooda kaajulamu. Maanandaramu kalasi votlu vesi, veyluchi, mana kulathuraalini neggincha valem."

The witness then told them that it was not proper to canvass on communal lines. The respondent also came once to his house and appealed to him on the same lines. The Manager of the School who is also a Kapu asked for his support but he refused to do any electioneering work as he was a public servant. The Manager then threatened to dispense with his services if he did not work for the respondent. After the elections also the respondent's workers threatened to get him removed from service. On 1st April 1955 the Manager of the school had suddenly discharged him from service appointing another in his place. He complained of this to the Inspector of Schools and to the Secretary of the District Teachers' Federation. He complained also to the petitioner seeking his interference in the matter. He issued a registered lawyer's notice to the Manager of the School, Ex. A222 is the notice. Ex. A223 is the reply given by the Manager through his advocate. Ex. A224 is a memo sent by the Deputy Inspector of Schools dated 11th August 1955, directing this witness to send a reply to the pre-

vious communication dated 16th July, 1955 sent to him. Ex. A225 is the reply sent by this witness to the Deputy Inspector of Schools. Ex. B2 is the memo dated 15th July, 1955 and referred to in Ex. A224. He admits in the course of his cross examination that he worked for the Communist party in 1952 general elections for Parliament and for Praja Party in the Assembly elections. The Praja Party then supported the Communist party. He denied that he is a member of the Communist party. He said that it was Venkataramayya that appealed to his communal passions. We did not tell this to the petitioner though he was one of the contesting candidates. A perusal of Exs. A222 to A225 and B2 would reveal that this witness (P.W. 83) was a teacher in the Aided School at Attili, that he was removed from service by the management on 1st April, 1955, that he then issued a registered notice Ex. A222 dated 6th June, 1955 demanding reinstatement and that otherwise, he would file a suit against the management for the necessary reliefs. Ex. A223 is the reply given by the management wherein it was stated that there were complaints against this witness that he was misbehaving with one of the lady teachers and that the management had advised him to mend his ways and that this witness stated that he was not going to continue after 31st March, 1955 as a teacher in the school and that he accordingly willingly left the school on 1st April, 1955.

96 This teacher, P.W. 83, appears to have sent a petition to the Deputy Inspector of Schools, Tanuku Range complaining about his removal from service. On that petition, Ex. B2 was sent to this witness asking him to explain why he submitted that petition when he had voluntarily quitted the service and as to why he did not report the matter to the office till 7th June, 1955 if he had been removed from service by the manager against his desire. In reply to Ex. B2, this teacher sent Ex. A225 stating that he did not quit the service voluntarily. It is significant to note that in any one of these exhibits it was not mentioned that his removal from service was due to his not supporting the respondent in the elections. If really that was the ground on which he was removed and if he really wanted to go to a Court of law for reinstatement on the plea that he was removed from service on mala fide grounds, that allegation would have found a prominent place in the registered notice issued by him. In the absence of this averment in this correspondence between him and the Deputy Inspector of Schools or between him and the management, we are unable to hold that his removal from service had anything to do with the respondent's election or that the respondent or her agents had, in any way, interfered with his service as a teacher in the school. There is no doubt that this witness is a supporter of the communist party. We, therefore, hold that no appeal was made on grounds of caste to P.W. 83 by the respondent or her men. Further, it was not mentioned in the list of particulars as to who appealed to him and when and at what place. Want of these details is also fatal to this case. On a consideration of all this evidence, we hold that no convincing evidence has been let in that the respondent or her men had appealed much less systematically to any of the voters to work for the respondent on grounds of caste.

97. It is argued by the learned advocate for the petitioner that the respondent is a stranger to the Attili constituency, that she was previously representing the Eluru constituency, that at a meeting of the A. P. C. C. held on 13th December 1954 one Sri D. Basivireddi was selected for the Attili constituency as can be seen from Ex. A230(a) and that in the next meeting held on 29th December 1954, Ex. A230(b), no change was announced in the list of candidates as per the resolution Ex. A230(a) and that subsequently the respondent has been selected for the Attili constituency because a majority of the voters in that constituency belong to the same community as that of the respondent. Sri Gopalareddi (R.W. 46) deposed that the meeting on 13th December 1954 as per Ex. A230(a) appears to have been held prior to the formation of the United Congress Front, that Sri Basivireddi did not offer himself as a candidate to contest the elections, that Sri Basivireddi defeated the Congress candidate in 1952 elections and that the final list of candidates was announced from Delhi on 24th December 1954. He says that Sri Basivireddi was probably selected tentatively as a Congress candidate before the formation of the United Congress Front. He denies that the respondent was later selected to the Attili seat on communal grounds. The respondent as R.W. 83 deposed that she is a member of the A. P. C. C. and the A. I. C. C. and also a member of the Election Committee formed to select candidates on behalf of the Congress, that Sri Basivireddi was not selected for the Attili constituency and that he was not asked also if he would stand and that Basivireddi was not at any time a Congress man. As a matter of fact, Basivireddi did not stand for election for any seat in 1955 elections. She further said that she was present at the A. P. C. C. meeting held on 29th December 1954 and that this question of selection of candidates was never discussed in that meeting. It was the Election Committee that finalised the list. The question of selection for Eluru and Attili constituencies remained undecided for a long time. She denied that she was selected as a candidate for Attili constituency as Telagas constitute a major portion of the electorate.

98. We are not here concerned with the reasons why a particular candidate has or has not been selected to any constituency by a political body. What we are concerned with is, whether a candidate after having been selected, had appealed to the voters on the ground of caste or not. Even if it were true that the respondent has been selected as a candidate because there are many Kapu voters in the constituency, we cannot from that jump to the

conclusion that the candidate had appealed to the voters to vote for her on grounds of caste. There must be specific and independent proof of the appeal. We have discussed the evidence above on this matter and we hold that there was no such appeal to the voters on communal lines. We accordingly find this issue against the petitioner.

99. *Issue 12.*—It is the contention of the petitioner that the circulars, placards and posters mentioned in schedule VIII attached to the list of particulars do not bear on their face the name and address of the printer and publisher. This is an illegal corrupt practice coming under s. 125 (3) of the Act, which runs thus:—

"The issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof."

Ex. A1 is a pamphlet issued by the Huzur Nagar Taluk Congress in the Telangana area. It does not contain the name of the printer. It contains a list of the violent deeds committed by the Communists in the Huzurnagar taluk. P.W. 1 says that this pamphlet was distributed in Attili constituency. No details have been given. R.W. 20 admits that he saw them distributed at Tanuku only which is not in Attili constituency. This pamphlet was obviously printed for purposes of the election in the Telangana area in 1952. In 1955 there were no general elections in Telangana. It may be that the pamphlets printed in 1952 were used by the Congress party in 1955 elections. R.W. 20 says that the respondent did not publish this pamphlet. The Hyderabad P. C. C. opened an office at Vijayawada and got these pamphlets distributed throughout the State without reference to local organisations. He further says that he came to know of these pamphlets only when they were distributed at Tanuku. He is not aware as to who distributed them. R.W. 83 also denies all knowledge of these pamphlets. It is argued by the learned advocate for the respondent that Ex. A1 was issued by the Hyderabad Provincial Congress Committee, that it is a political association which has nothing to do with the respondent and that anything done by the Hyderabad P. C. C. cannot be said to be an act of hers. In other words, he argues that the Hyderabad P. C. C. is not the agent of the respondent. We cannot agree with this contention. Hyderabad P. C. C. is as much a State association as that of the Andhra P. C. C. and all of them form part of the All India Congress Organisation. It cannot be said that the Hyderabad P. C. C. is an independent political association by itself whose acts do not bind the respondent. If the Hyderabad P. C. C. had canvassed for the respondent by means of these pamphlets in her constituency and if they were intended for the purpose of promoting her election, the respondent cannot take the benefit of the services of that body and at the same time repudiate its agency. Respondent is herself a nominee of the Congress body and whatever work is done by any Congress body whether it be of Hyderabad or of Delhi, those organisations must be deemed to be the agents of the respondent. It is not the respondent's case that she has repudiated the contents in Ex. A1. But in this particular case there is no convincing proof excepting the interested testimony of P.W. 1 that these pamphlets were at all distributed in Attili constituency. R.W. 20 says that he saw them only in Tanuku. Respondent in her counter stated that this pamphlet was issued by the Congress party in Hyderabad for their elections in 1952 in that State and that the petitioner apparently secured a few copies of them and is now pressing them into service in this election petition. In view of this averment a very great responsibility rests on the petitioner to prove actually that these pamphlets were distributed in the Attili constituency. We cannot act merely on the sole testimony of P.W. 1. Exs. A2, A3 and A4 do not bear the name of either the printer or the publisher. Ex. A96 is a true photograph of Ex. A2. This photograph shows the name of the printer as
It is the case of the respondent that Exs. A2, A3 and A4 also contain the name of the Litho Press but that it might have been washed away purposely or by lapse of time. Whatever that may be, under s. 102(a) of the Act, an election can be set aside for the commission of an illegal practice coming under s. 125 of the Act only when the result of the election is materially affected by such practice. There is absolutely no attempt made by the petitioner in his case to show as to how the non-publication of the name of the printer or publisher materially affected the election. No petition's witness, not even the petitioner himself, spoke about this in his evidence. Where the omission of the name of the printer or publisher has not affected the result of the election so as to bring it within s. 102(a) of the Act, the election cannot be declared to be void on that ground. Hence we find that even though the names of printers or publishers are not to be found in Exs. A1 to A4, that fact did not in any way materially affect the election. Hence this issue is found against the petitioner.

100. *Issue 14.*—It is the contention of the petitioner that the special procedure prescribed for postal ballot has offended the rule of secrecy of the ballot and that the provisions thereof are *ultra vires* and void. Rules 37 to 40 of the Representation of the People Rules 1951 prescribe the procedure for the marking of postal ballot papers. According to these rules a presiding officer, polling officer, polling agent or public servant who is an elector for any constituency and is by reason of his being on duty at a polling station unable to be present and to vote at the polling station where he is entitled to vote, may apply to the Returning Officer of the constituency for which he is an elector for permission to vote at the election by postal ballot. If the Returning Officer grants the permission required he should send by registered post to each such elector a ballot paper in Form No. 11 and shall enter on the

counter-foil of each such ballot paper the name of the elector to whom the ballot paper is sent and his Serial number on the electoral roll. Along with the ballot paper, the Returning Officer should also send a cover addressed to himself in Form No. 12 and an envelope with the number of the ballot paper noted on its face and also a letter in Form No. 13. The ballot paper together with the cover, envelope, and letter should be sent to the elector to the address given in the application made by him. Every elector on receiving the ballot paper sent to him, if he desires to vote at the election shall record his vote thereon and sign the declaration on its back in accordance with the instructions on the ballot paper and in the letter sent with the ballot paper. The elector shall then place the ballot paper in the envelope, close the envelope and enclose it in the cover and send the cover to the Returning Officer so as to reach him before 5 p.m. on the date fixed in this behalf by the Returning Officer. An elector shall obtain the attestation of his signature, but not of his vote, on the postal ballot paper by a Magistrate to whom the elector is personally known or to whose satisfaction the elector has been identified.

101. Form No. 11 shows that the declaration is printed on the back of the outer foil of the ballot paper and it is on this declaration that the elector should sign. Below his signature there should be the attestation of the Magistrate. It is therefore clear that what is attested by the Magistrate is the signature of the elector and while so attesting he will have no opportunity to see the marked vote by the elector. Rule 40 clearly mentions that the attestation should be of his signature and not of his vote on the ballot paper. Therefore, it cannot be said that there is any breach of secrecy in the procedure prescribed. Further, the Constitution does not guarantee the secrecy of ballot. There is no provision in the Indian Constitution which makes voting by secret ballot compulsory in all cases. Vide *Ahmed Haji v. Kunhirama Kurup* (1). It cannot therefore be said that any fundamental right has been infringed in the procedure prescribed for the marking of postal ballot papers. Even if such a fundamental right is said to exist, the postal ballot in its very nature requires a reasonable restriction on the secrecy of the ballot as otherwise the valuable right of exercising the franchise will have to be denied to many public servants who would be on Government duty on the polling day.

102. P.W. 25 in his evidence has stated that Nadiampalli Thirupathiraju and Rangiseti Vihanna collected the postal ballots from those who were entitled to vote by post. He could not give the names of any persons from whom the votes were so collected. He is not a direct witness to the collection of such ballot papers. No other witness spoke about this collection. Further, it is not the case of the petitioner in his petition that the ballot papers were collected by the respondent or her agents. His only case therein is that the rules prescribed for the marking of postal ballot papers are void and *ultra vires*. This contention of the petitioner that they were collected by the respondent's men or her agents and that thereby the secrecy was broken cannot be considered in this enquiry.

103. I.A. No. 60 of 1957 is a petition filed by the petitioner praying for exhibiting on his side the postal covers in which the several votes cast by postal ballot have been sent to the Returning Officer. In view of our findings above, it is unnecessary to exhibit these covers. In fact, no such covers have been received by this Tribunal from the Returning Officer. We hold this issue against the petitioner and dismiss I.A. No. 60 of 1957.

104. Issue 13.—It is the contention of the petitioner that while the maximum limit prescribed towards election expenses for a candidate is Rs. 8,000, the respondent spent about Rs. 86,000, for the purposes of the election and that this expenditure has not been shown in the election return. He further contends that the return of election expenses given by the respondent is false in material particulars and that several sums received by her towards election expenses have not been in the election return.

105. Section 76 of the Act provides for the submission of a return of election expenses within the prescribed time. Section 77 provides for the maximum scale of election expenses. This section has to be read with rule 107 of the Rules framed under the Act which, in its turn, refers to the maximum fixed in schedule V. Rs. 8,000 is the maximum limit of expenses prescribed for an election to a State Assembly in the Andhra State in a single

Member constituency. Section 100 (2) (b) of the Act provides that the Tribunal shall declare the election of the returned candidate to be void if he commits any of the corrupt practices described under section 123 of the Act. The corrupt practice relating to election expenses comes under section 123 (7). It reads thus:—

“The incurring or authorising by a candidate or his agent of expenditure or the employment of any person by a candidate or his agent in contravention of this Act or of any rule made thereunder.”

Section 124(4) deals with the return of election expenses, which is a minor corrupt practice. It reads thus:—

"The making of any return of election expenses which is false in any material particular or the making of a declaration verifying and such return."

From the foregoing sections, it is clear that if a major corrupt practice under section 123(7) of the Act is committed, the election is *per se* void and the further question whether the election was materially affected or not would not arise. But in the case of a minor corrupt practice under section 124(4) the petitioner has to show not merely that the alleged corrupt practice was committed but he must further show that the election was materially affected thereby. Under section 83(2) of the Act, the petitioner must give in the list of particulars full details of the alleged items of expenditure not shown in the election return filed by a returned candidate and also the date and the place where such expenditure was incurred. He must further show that if such expenses were added on to the return of expenses submitted by the returned candidate, it would exceed the prescribed limit. The burden of proving this is heavy on the petitioner. In a case coming under section 124(4) the corrupt practice is not the incurring of expenditure but it is the making of a false return of expenditure. Section 44 of the Act reads thus:—

"Every election agent shall for each election for which he is appointed election agent keep separate and regular books of account and shall enter therein such particulars of expenditure in connection with the election as may be prescribed."

The election agent is therefore enjoined to keep regular accounts of the particulars of expenditure incurred by him in connection with each election. Nothing is mentioned in this section as to the particulars of the receipts of money by the candidate or the sources from which he incurred the expenditure. Rule 111 reads thus:—

"The books of account to be kept by an election agent under section 44 shall contain a statement—

- (a) of all payments made or authorised by the candidate or by his election agent or made on behalf of the candidate or in his interests by any other person with the consent of the candidate or his election agent for expenses incurred on account of or in connection with the conduct and management of the election; and
- (b) of all unpaid claims in respect of such expenses of which the candidate or his election agent is aware."

This rule lays emphasis on the expenditure and not on the receipts. Rule 112(3) provides that the election return shall be in Form 26 and shall contain the particulars specified in paras 1 and 2 of schedule IV. Para 1 of schedule IV requires that the receipts should be shown under a separate head. Para 2 requires that the expenditure should be shown under the several heads mentioned therein. The form of declaration mentioned in schedule IV requires that while affirming to the truth of the return of election expenses, the election agent must further affirm that "except the expenses herein set forth no expenses of any nature whatsoever have, to my knowledge or belief been incurred in or for the purpose of candidature." The expression "election expenses" has now here been defined under the Act. This expression normally denotes the amount that has been spent for purposes of the election. Section 44 of the Act and also rule 111 refer only to the expenditure incurred by the candidate. Form 26 and schedule IV refer to the giving of information regarding the receipts in respect of the expenses incurred for the election. Even here the emphasis is more upon the expenditure rather than on the receipts. The introduction of the receipts column in form 26 appears to have been introduced merely for the purpose of showing which receipts operated as a source of expenditure for the expenses shown in the election return. So, what is more essential under this corrupt practice is the details of the expenditure and not the receipts. Under s. 124(4) of the Act, it is the making of a false return of election expenses that has been held to be a minor corrupt practice and not a false return of election receipts. The receipts cannot be said to be material particulars in an election return.

105. *Expenditure.*—It is the case of the petitioner that the respondent incurred an expenditure of Rs. 36,000 towards her election expenses. P.W. 25 the petitioner alone speaks about this. He has no personal knowledge about the items of expenditure. He does not give any details even in his evidence as to how this amount is made up of. His evidence is purely hearsay. No details of this Rs. 36,000 which are said to have been spent by the respondent have been given in the list of particulars. Ex. B17 is the return of election expenses. It shows that a sum of Rs. 5,981/1/6 has been spent by her as against her receipts alleged that the "Attili Varthaka Sangham" had spent a sum of Rs. 4,000 towards the election expenses of the respondent by running six *sibirams* or election camps at Attili. P.W. 1 deposed that the Attili Varthaka Sangham collected a sum of Rs. 10,000 from the merchants

and out of it a sum of Rs. 4,000 was spent for advertisement purposes on behalf of the respondent. He does not give any details of this expenditure nor has he filed any documents in support of this allegation. He does not say that this amount was spent for running any election camps but this amount was spent for advertisement charges. He admits in his cross-examination that he does not personally know how much money this society spent in the elections. P.W. 25 the petitioner deposed that the members of the *Varthaka Sangham* organised *sibirams* for carrying on propaganda both at Attili as well as at Relangi, that they collected *rusums* for the traders under this head and out of it Rs. 6,000 was given to the respondent and Rs. 4,000 were spent on *sibirams*. In cross-examination he stated that by *sibiram* he meant the election office where the workers would meet, discuss the electioneering work, prepare placards etc. He further admits that Satti Satyam and some other merchants told him that Rs. 4,000 were spent for these election offices and that he has no personal knowledge of the same. He also admits that he is not personally aware of the collection of *rusums* by the Merchants' Association at Attili from any one of the merchants. He is also not personally aware that 6,000 was given to the respondent by the Merchants' Association. P.W. 76 speaks only about collection of *rusums* from him and other merchants by the *Varthaka Sangham* for being paid to the respondent. He does not speak of any expenditure having been incurred by the *Varthaka Sangham* personally on behalf of the respondent for running the election offices. There is, therefore, absolutely no legal evidence in support of this contention that a sum of Rs. 4,000 was spent by the *Varthaka Sangham* in furtherance of the election campaign of the respondent. No other items of expenditure which have not been shown in the election return have been alleged by the petitioner. We, therefore, hold that there is no evidence to show that the respondent has incurred any expenditure over and above that which has been shown in Ex. B17. Hence we hold that no corrupt practice under s. 123 (7) has been committed by the respondent.

107. *Receipts*.—In our general discussion above on this issue we have shown how the receipts is not a material particular to be shown in the election return and that the non-showing of any items of receipt in that return does not amount to any corrupt practice. But anyway since it is alleged that certain amounts received by the respondent have not been shown in the election return we propose to discuss the evidence on this matter also. The petitioner does not dispute the genuineness of any of the vouchers filed along with the election return, except Ex. B17 (a). Ex. B17 (a) is a voucher given by one Marre Venkatarao for Rs. 860 for the use of his car No. 1059 in the election campaign. It states that Rs. 450 had already been paid to him and that Rs. 410 were paid at the time of giving this receipt which is dated 19th February, 1955. Petitioner disputes this voucher as a fictitious receipt. He filed I.A. No. 19 of 1957 calling for full particulars of the address of this Marre Venkatarao. The respondent furnished the information required by him saying that he is a bus driver at Tanuku. No evidence has been let in subsequent to receipt of this information by the petitioner about this item. Excepting a bold statement that it is not a genuine receipt there is no material put before us to show how it is not true. Respondent swears that this is a true item of expenditure. Further, it is not known how the fictitious nature or otherwise of this receipt would advance the case of the petitioner. If it is the case of the petitioner that towards expenditure for cars the respondent incurred more expenditure than what was mentioned in Ex. B17 (a) and that a receipt had been obtained only for a lesser amount, there would have been some force in the contention of the petitioner. Petitioner does not set up any such case. Nor does he attempt to lead any evidence about it. In the absence of that evidence, there would be nothing which the respondent would gain by putting up any fictitious voucher like Ex. B17 (a). We hold that Ex. B17 (a) is not a false item of expenditure.

108. It is next alleged that the *Attili Varthaka Sangham* collected some extra *rusums* from the merchants, who frequent the shandies for sale of their goods and out of the amount so realised a sum of Rs. 3,000 has been given to the respondent for her election expenses and that this receipt has not been shown in the election return. P.W. 76 is a petty trader in onions and chillies in the shandies round about Attili. He deposed that the *Attili Varthaka Sangham* collected at the rate of 8 annas for a bag of onions and chillies for being paid to the respondent towards her election expenses. He paid in all about Rs. 20. Similar contributions were collected on tamarind and such other commodities.

109. He further deposed that this *Varthaka Sangham* paid Rs. 3,000 in a public meeting held at Attili at Santha Bazaar. This meeting was held at about 9 P.M. on Sankranthi day. He admits in his cross-examination that he was elected to the Panchayat Board in 1953 with the support of the Communist party, that he pays no profession tax or even sales-tax, that he has no accounts to show the nature of his business and that there are no receipts with him showing payment of any market tax for exposing his goods for sale in the market. There is absolutely no documentary evidence to show that he is either a trader or that he ever paid any amount to the *Varthaka Sangham* for the purposes of respondent's election expenses.

110. P.W. 7 (Manikareddi Rangarao) deposed that he and Marisetti Butchiraju of Relangi are partners in onion trade, that Butchiraju is a member of that Chamber, that this association levied 6 to 8 annas per bag of onions and such other commodities towards election

fund and that there are 5 onion merchants as members of the Chamber and they have paid about Rs 1,500. He cannot say if these contributions were credited in the accounts of the Chamber. This company maintains accounts and they do not show the payments of these contributions to the Chamber. He does not know if his firm is registered or not. He has not produced the account books of the firm. He has no documents to evidence his partnership with Butchiraju. He admits that the business is run in the name of Butchiraju only and says that it is Butchiraju that paid the amount to the Chamber and that he was not present at the time of the said payment. Butchiraju is alive and he has not been examined in this case.

111 A perusal of his evidence would show that he has no connection with the firm of Butchiraju. There is no documentary evidence that any such contribution as is alleged by this witness was paid by this firm. P.W. 79 is another petty trader in tamarind. He deposed that a sum of one rupee per maund was collected extra from him towards the election expense of the respondent. He has not filed any documents or receipts to show that he made any such contributions. He says that he paid profession tax but no receipts were filed. He does not even remember the name of the marketing contractor who collected market dues from him. P.W. 17 is a clerk in Chowdari Venkataratnam & Company, Attili. This firm deals in chillies and jaggery. He also had his own business in 1953. He is a member of the Attili Chamber of Commerce from the last 4 years. He deposed that the Chamber was registered only 3 or 4 months back. There is a Minutes Book and accounts book also for this Chamber. He deposed that no resolution was passed by the Chamber of Commerce that they should support the respondent in 1955 elections. No money was collected by the Chamber for election expenses of the respondent. No money also was paid to her on behalf of the Chamber. He also said that the Chamber of Commerce did not set up any election offices for the respondent and spend any money on that account. The evidence of this witness completely destroys the case of the petitioner. This witness has not even been declared hostile and no permission even was sought for his cross examination. This is all the evidence relating to the collections which are alleged to have been made by the *Varthaka Sangham* out of which certain amounts are said to have been either given to the respondent or spent by themselves personally for election work. We have no hesitation in holding that the evidence of P.W. 7, 76 and 79 is untrustworthy and in the absence of any documentary proof, we cannot hold that any extra *rusums* were collected from these petty traders towards election expenses of the respondent.

112 It is next alleged that at a meeting held on 14th January, 1955 at Attili a sum of Rs 3,000 was given to the respondent towards her election expenses. P.W. 63 (Mohammad Moulana Uddin alias Moulana) deposed that in 1955 elections he gave *burra katha* performance on behalf of the Congress party, that at the request of Sri Kusampudi Ramakrishna and others he gave a free performance at Attili in connection with the respondent's election that a public meeting was held at 8 p.m. at the Santha Market. K. Ramakrishna presided over that meeting and as *burra katha* was to be performed after the meeting was over they were waiting towards the back of the platform. At that meeting Tirupathiraju, Namburi, Simivasarao and Gade Raghunayakulu spoke. After the speeches were over, the members of the Attili *Varthaka Sangham* presented a purse of Rs 3,000 to the respondent. The presentation was made by the Secretary of the Sangham to Ramakrishna who, in his turn, delivered the purse to the respondent. This was also announced at the public meeting. Thereafter *burra katha* performance was commenced. After *burra katha* the President of the Town Congress Committee announced the termination of the meeting. In cross examination he said that this performance commenced at 11 p.m. that no speeches were made by any members of the *Varthaka Sangham*, that a leather purse was presented to the respondent with an announcement and that he did not know what it contained. It was suggested to him in the course of the cross examination that he went late to the meeting and that as such no performance was given but this was denied by the witness. P.W. 76 deposed that Damisetri Bushanani the Secretary of the *Varthaka Sangham* presented a purse of Rs 3,000 at the abovesaid meeting. P.W. 79 speaks merely about the collection made by the *Varthaka Sangham* and does not say anything about a purse being given to the respondent at the meeting. Ex. A111(a) is the Newspaper report in Andhra Patrika dated 21st January, 1955. The relevant portions of this report are.

"Athili kaapu varthaka sanghamu varu cirukala khachuku garu vasooluchesina moodu vela roopaayalu Srimathi Ammanna Raja gariki yichchutaku minayamchaarru."

"Mavurana dlam varu burra katha cheppaaru Paltana Congress adhyakshulu Edlapalli Vceranna garu vandanaalatho sabhe mugisindi."

This document is relied on by the petitioner to prove that Rs 3,000 were paid to the respondent at this Attili meeting towards her election expenses. The reporter who had sent this report has not been examined in this case. His original report or his rough notes were not filed. For the reasons stated by us in connection with Exs. A80 and A112 this document

also comes under the category of an anonymous publication and in the absence of any evidence to prove the contents of this report we hold that this is not a legally admissible piece of evidence.

113 Further what is stated in this report is not that a purse had actually been given to the respondent but that it was decided to give a purse of Rs 3,000 to the respondent. If really a purse had been presented in a public meeting, the report would not have been in this manner. The report shows that the meeting was held on 14th January, 1955.

114 RW 20 is Chinupathiraju. He deposed that he attended the meeting held at Attili presided over by Kusampudi Ramakrishna that he also addressed that meeting, that the respondent did not attend that meeting that Sri Namburi Srinivasarao M.L.A. and Gade Raghunayakulu A.P.C.C. Member also attended that meeting and that it is not true that a purse of Rs 3,000 was given to the respondent by the members of the *Attili Varthaka Sangham*. He says that the meeting went on till 11.30 P.M. RW 93 is a member of the Maulani group of *burra katha* performers of whom PW 63 is the head. He deposed that PW 63 is the songster and himself the interpreter of those songs. He said that his party was engaged to give performance on the Sankranti day and that they went to Attili by about 11 P.M. By the time they went there Gade Raghunayakulu was addressing the meeting. Himself and PW 63 were in a room nearby for the make up. They came to the meeting place after the meeting was over. There were then about 100 persons at the meeting. When those persons saw this troupe on the platform they all left the meeting place saying that these are 'our own people'. Respondent was not there at that meeting. Nobody paid any money to the respondent or announced to pay any money. No *burra katha* performance was given on that day. RW 64 is one of the persons who attended that meeting. He deposed that the respondent did not attend that meeting and that Damiseti Bhushanam did not either present a purse of Rs 3,000 or announce any such purse to the respondent. Nobody in the *Varthaka Sangham* spoke at that meeting. *Burra katha* performance also did not take place as the performers came late. All these performers belong to the village of Attili only.

115 RW 66 is Sri Namburi Srinivasarao a sitting M.L.A. He deposed that he addressed the meeting held on 14th January, 1955 at Attili, that the respondent did not attend that meeting, and that she went to Rajahmundry. The meeting at Attili was from 9 P.M. to 12 midnight. No representative of *Varthaka Sangham* addressed that meeting and no purse was presented by the said *Sangham*. After the meeting was over he went to Rajahmundry and met the respondent there. She and himself both went to the aerodrome to give a send-off to Sri Pandit Nehru. He further says in cross examination that he remembers the date to be 14th January, 1955 because on that day Sri Nehru visited Rajahmundry and also because it happened to be a Sankranti day.

116 RW 75 is Damiseti Bhushanam. He is the Secretary of the *Varthaka Sangham*. He deposed that his Society was registered in February 1957, that a *rusum* of 6 pies per bag is generally collected and the amounts so realised are utilised for the expenses of the *Sangham* and for charity that no enhanced *rusums* were collected to finance the election campaign of the respondent that he did not attend the meeting held on 14th January 1955 at Attili and that it is not true that a purse of Rs 3,000 was paid to the respondent at the Attili meeting. He has also filed his accounts of his *Sangham*, which do not show during the relevant period either the extra collections said to have been made by the *Sangham* or the sum of Rs 3,000 said to have been paid to the respondent or the sum of Rs 1,000 alleged to have been spent for the election camp offices of the respondent. He also deposed that neither PW 7 nor PW 76 nor PW 79 are members of the *Varthaka Sangham*. Lx A237 is the day book from July 1953 to August 1954. Ex A237 (a) is an entry dated 18th July 1951 showing that a sum of Rs 200 was paid to *Tanapalli Kapu Sangham* by way of donation. This entry has nothing to do with the election in question nor with the respondent. Lx A238 is the day book from 20th August 1954 to 25th August 1954. Ex A239 is the corresponding ledger. The election period falls during the time covered by these two books. A perusal of these books would show that no payments were made to the respondent for any election expenses. Nor were any extra collections made from the traders. It is argued by the petitioner that the true books have been suppressed and that Exs A238 and A239 were freshly written up. There is no proof of this. Ex A240 is the day book from 25th August to 11th December 1956. Ex A242 is the corresponding ledger. These books also do not throw any light on the point in issue. Ex A241 is the corresponding ledger to Lx A237. Ex A236 is the Secretary's report of the *Attili Varthaka Sangham* for the year 1957. Ex B16 is the Minutes Book of the *Attili Varthaka Sangham*.

117 RW 71 is Kusampudi Ramakrishna. He presided at the meeting held on 14th January 1955. He deposed that the respondent did not attend that meeting that RW 20, RW 66 and Gade Raghunayakulu spoke at that meeting and that no presentation of any purse was made in that meeting by *Varthaka Sangham*. A *burra katha* performance has been arranged but the performance did not take place as the performers arrived late and as most of the audience had left the meeting place by then.

118. R.W. 85 is the respondent. She deposed that she did not attend the meeting at Attill on 14th January 1955 and that she went to Rajahmundry on that day as Sri Pandit Nehru was expected to be at Rajahmundry on that day, and that she did not receive any purse from the Attill Varthaka Sangham at that meeting.

119. R.W. 87 is a merchant at Rajahmundry. He deposed that on 14th January 1955 Sri Pandit Nehru came to Rajahmundry. It was Sankranthi day. Respondent also came to Rajahmundry on the morning of that day and stayed with him in his house as she is the friend of his wife and that the respondent left Rajahmundry the next day after Sri Nehru went away.

120. R.W. 47 is the Vice-President of the Varthaka Sangham. He deposed that the sum of Rs. 3000 was not paid to the respondent through the Secretary. He also denied any extra collections from the traders towards the election fund. He further deposed that P.W. 76 is his maternal uncle's son, that he is not a merchant but only does some sundry business in fuel, that he did not make any collections in shandies. Nor did he pay any such collections to the Sangham. He deposed that P.W. 76 worked for the Communists in the last elections. He denied that any sibirams were run for the election campaign of the respondent. There is preponderance of evidence on the side of the respondent to show that on 14th January 1955 the day on which the Attill meeting was held, the respondent was at Rajahmundry and that no purse was either presented or announced at that meeting. The evidence to the contrary for the petitioner is not trustworthy. We hold that no such purse was presented to the respondent.

121. The next item of receipt alleged by the petitioner is that Sri Gopala Reddi paid Rs. 10,000 to the respondent towards her election expenses. The only person that speaks about it is P.W. 25 and it is purely hearsay. Mr. Gopala Reddi examined as R.W. 46 deposed that he paid only Rs. 3000 to the respondent. Ex. B13 dated 12th February 1955 is the Demand Draft given by the Andhra Bank, Nellore in favour of the respondent for Rs. 3000. R.W. 73 deposed that he is the agent of the Andhra Bank, Tanuku, and that the Nellore Branch sent Ex. B13, and that one Nadimpalli Sarraju encashed the same. Ex. B17 shows that only Rs. 3000 was received from Shri B. Gopala Reddi. There is, therefore, no proof for the petitioner that anything over and above Rs. 3,000 was paid by Sri Gopala Reddi to the respondent.

122. The next item of receipt alleged by the petitioner is that the A.P.C.C. donated a sum of Rs. 10,000 towards the election expenses but that only Rs. 2000 was shown in the election return. There is no proof on the side of the petitioner that Rs. 10,000 was paid. P.W. 25's testimony is purely hearsay. Ex. A232(a) is an entry in the cash book of the Andhra Provincial Congress Committee, Vijayawada. It shows that a sum of Rs. 2,55,200 were paid by cheques to several persons and candidates etc. in elections as per statement of G. Subrahmanyam. It is only a lump sum figure that is mentioned in this entry. It is not known how much was paid to each candidate and much less to the respondent. The entry shows that the statement of one G. Subrahmanyam contains the details. This statement has not been filed. Ex. A231(a) is the corresponding entry in the ledger. Ex. A233(a) is another entry in the ledger which shows that a sum of Rs. 19,000 was collected as election fund through Sri B. Gopala Reddi. This entry also does not throw any light on the point at issue.

123. R.W. 83 the respondent deposed that the A.P.C.C. gave her only Rs. 2000 through Sri Alluri Bapineedu, the President of the West Godavari District Congress Committee and that it is not true to say that she received Rs. 10,000. It is argued by the learned advocate for the petitioner that the respondent ought to have examined Sri Alluri Bapineedu or filed the accounts of the District Congress Committee, West Godavari, to show that only Rs. 2000 was paid to her. But we do not think that in the absence of any proof by the petitioner of payment of Rs. 10,000 by the A.P.C.C. there is any duty cast upon the respondent to show that only Rs. 2000 was paid. The burden lay heavy on the petitioner and he has not discharged it. We, therefore, hold that the petitioner has not been able to make out that Rs. 10,000 was paid by the A.P.C.C. It is thus seen that none of the items of receipt which are alleged to have been taken by the respondent have been proved. Hence we hold that the return of election expenses is not false in any material particular. Issue found accordingly.

124. *Issues 15 and 16.*—In view of our findings above, we hold that the election is not materially affected by all or any of the allegations mentioned in the petition.

125. In the result, we dismiss the petition with costs. In view of the magnitude of the case and the time involved we fix the costs at Rs. 500 inclusive of the advocate's fee of the respondent. The petitioner shall bear his own costs.

Dictated to shorthand writer and pronounced in open Court, this 31st day of December 1957

(Sd.) T. H. M. SADASIVAYYA,

Chairman.

(Sd.) M. SITHARAMAYYA,

Advocate Member.

126. I agree with the findings and the reasons given in support of the findings except in respect of the quantum allowed as costs to the respondent. I am unable to see eye to eye with the quantum of the costs allowed to the respondent. This is easily one of the biggest cases that have till now come before our Courts under the recent elections. On the side of the petitioner 90 witnesses were examined, on the side of the respondent 91 witnesses were examined and about 1000 documents are marked. The advocates on both sides worked with great ability. It seems to me that any sum less than Rs. 1000 by way of the fee of the advocate in addition to taxed costs of respondent will not meet the ends of justice.

(Sd.) C. NARASIMHACHARYULU,

Judicial Member.

FINAL ORDER

The order regarding costs as passed by the majority Members of the Tribunal will stand pronounced in open Court, this 31st day of December 1957.

(Sd.) T. H. M. SADASIVAYYA,

Chairman.

(Sd.) C. NARASIMHACHARYULU,

Judicial Member.

(Sd.) M. SITHARAMAYYA,

Advocate Member.

[No. 82/9/55/5326.]

By order,

DIN DAYAL, Under Secy.

